



STATE OF SOUTH CAROLINA  
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210  
P.O. Box 12265, Columbia, South Carolina 29211

SC INFORMATION LETTER #18-15

**SUBJECT:** Tax Legislative Update for 2018 – Subsequent Legislation

**DATE:** October 16, 2018

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

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

South Carolina Information Letter #18-12 was issued on September 20, 2018, and briefly summarized most of the significant changes in tax and regulatory laws and regulations enacted during the past legislative session. Since this time, the General Assembly reconvened and overrode the Governor’s veto of Senate Bill 1043 (Act No. 265) on October 3, 2018. The General Assembly also passed House Bill 5341 (Act No. 266), the Taxpayer Protection and Relief Act, which was signed by the Governor on October 4, 2018.

Attached is a brief summary of Act No. 265 and Act No. 266. The summary is divided into categories, by subject matter, as indicated below.

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<b>Summary of Legislation by Category:</b>	
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**DISCLAIMER:**

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

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

**TEXT OF LEGISLATION:**

A complete copy of the legislation can be obtained from the South Carolina Legislature's website at [scstatehouse.gov](http://scstatehouse.gov).

**NUMERIC LIST OF BILLS BY SUBJECT MATTER**

A numeric list of subsequent tax legislation enacted in October 2018 is provided below by subject matter.

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

<b>BILL #</b>	<b>ACT #</b>	<b>SUBJECT</b>
1043 – Sec. 1	265	Abandoned Buildings Credit – Repeal of Act Postponed
1043 – Sec. 2	265	Abandoned Buildings Credit – Subdivision of Multi-floor Structure on National Register
1043 – Sec. 3	265	Textile Credit – Definitions Amended
1043 – Sec. 4	265	International Shipping Activities – Use of Federal Election
1043 – Sec. 5.A & 5.B	265	Abandoned Buildings Credit – Allocation and Carryforward Amended
1043 – Sec. 5.C	265	Certified Historic Credit – Allocation and Carryforward Amended
1043 – Sec. 6.A	265	Increase in Purchases of South Carolina Agricultural Products – New Credit
1043 – Sec. 6.B	265	Job Development Credits – Qualified Service-Related Facility Definition Expanded
1043 – Sec. 7	265	Direct Broadcast Satellite Services Gross Receipts – New Provision
5341 – Sec. 2 & 3 – Sec. 4 – Sec. 5 – Sec. 6 – Sec. 7 – Sec. 8	266	South Carolina Taxpayer Protection and Relief Act – Internal Revenue Code Conformity – Income Tax Brackets Inflation Adjustment – New South Carolina Dependent Exemption – Deduction Amount for Dependents under Age 6 – Taxpayer Education – Agency Report

**PROPERTY TAXES and FEES IN LIEU OF PROPERTY TAXES**

<b>BILL #</b>	<b>ACT #</b>	<b>SUBJECT</b>
1043	265	Abandoned Buildings Credit and Textile Credit - Amended

**MISCELLANEOUS**

<b>BILL #</b>	<b>ACT #</b>	<b>SUBCATEGORY</b>	<b>SUBJECT</b>
		<b>Administrative &amp; Procedural</b>	
1043 – Sec. 8	265		Revenue Procedures Act – Definitions, Appeals Procedures, and Refunds

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

House Bill 5341 (Act No. 266)

## **South Carolina Taxpayer Protection and Relief Act**

- **Overview of Federal and South Carolina Tax Legislation and Conformity**

Federal Tax Legislation. The Tax Cuts and Jobs Act of 2017 (signed December 22, 2017) is the most comprehensive federal tax reform in over 30 years. This tax legislation dramatically changes the taxation of individual taxpayers for tax years beginning in 2018 through 2025 by providing new income tax rates and brackets, increasing the standard deduction, suspending personal exemptions, limiting the state and local tax deduction, temporarily reducing the medical expense threshold, eliminating miscellaneous itemized deductions and reducing other deductions. The federal legislation also provides a new deduction for non-corporate taxpayers with qualified business income from pass-through entities.

For businesses, the federal legislation permanently reduces the corporate tax rate to 21%, imposes new limits on business interest deductions and makes a number of other changes, including changes involving expensing, depreciation, accounting methods. The legislation also makes significant changes to the tax treatment of foreign income and taxpayers.

In addition to the Tax Cuts and Jobs Act of 2017, Congress enacted the Bipartisan Budget Act of 2018 on February 9, 2018. This Act contained law changes that retroactively extended through 2017 a number of miscellaneous tax related provisions, and provided relief to victims of Hurricanes Harvey, Irma, and Maria. Although many of the provisions expired on December 31, 2016, the Budget Act retroactively “extended” these tax provisions through 2017.

South Carolina Conformity and Legislation. South Carolina’s adoption of the Internal Revenue Code is not automatic and is not all inclusive. On October 3, 2018, the General Assembly enacted “The South Carolina Taxpayer Protection and Relief Act.” This Act adopts many of the federal changes and provisions enacted in the Tax Cuts and Jobs Act of 2017, including the increased standard deduction amount, Section 179 expensing amounts, and opportunity zone tax benefits. Additionally, South Carolina’s conformity legislation adopts relevant federal tax “extender” provisions and Hurricane Irma disaster relief available in the Disaster Tax Relief and Airport and Airway Extension Act for 2017 South Carolina income tax purposes.

The South Carolina Taxpayer Protection and Relief Act also includes a new South Carolina deduction for dependents, a deduction for dependents under age six, income tax bracket adjustments, and other modifications to the federal income tax laws. A summary of the Act by section number is provided below.

### **Internal Revenue Code Conformity (Sections 2 and 3)**

Conformity Date. Code Section 12-6-40(A)(1)(a) has been amended, except as otherwise provided, to update South Carolina's income tax laws to conform to the Internal Revenue Code of 1986, as amended through February 9, 2018, and includes the effective date provisions contained therein.

Extension of Federal Expiring Provisions. Code Section 12-6-40(A)(1)(c) has been amended to provide that if during 2018 the federal government extends without otherwise amending Internal Revenue Code provisions that expired on December 31, 2017, then these sections or portions of sections which have been adopted by South Carolina will be extended in the same manner they are extended for federal income tax purposes.

Internal Revenue Code Sections Not Adopted. Code Section 12-6-50 has been amended to add the following provisions to the list of Internal Revenue Code sections specifically not adopted by South Carolina.

1. Internal Revenue Code Section 118(b)(2) relating to the tax treatment of contributions by government entities or civic groups;
2. Internal Revenue Code Section 162(r) relating to the deduction of FDIC premiums;
3. Internal Revenue Code Section 163(j) relating to limitation on business interest expense and Code Sections 381(c)(20) and 382(d)(3) relating to the carryover of limited business interest in Code Section 163(j)(2);
4. Internal Revenue Code Section 199A relating to the qualified business income deduction; and
5. Internal Revenue Code Sections 250 and 267A relating to the taxation of foreign income.

Note: Other Internal Revenue Code sections are not adopted by South Carolina. They are not separately listed above since those sections are already reflected in South Carolina's list of sections specifically not adopted or are listed in a range of code sections currently referenced in Code Section 12-6-50. For example, South Carolina does not adopt Code Sections 944 through 989 relating to the taxation of foreign income, Code Sections 55 through 59A relating to minimum taxes or Code Section 168(k) relating to bonus depreciation. See Code Section 12-6-50 for a complete list of Internal Revenue Code sections which are not adopted by South Carolina.

- **Income Tax Brackets Inflation Adjustment (Section 4)**

Code Section 12-6-520 has been amended to provide that the income tax brackets in Code Section 12-6-510 will be cumulatively adjusted beginning on December 15, 2018 and each December 15 thereafter using the Chained Consumer Price Index for All Consumers, as published by the Bureau of Labor and Statistics of the Department of Labor, pursuant to Internal

Revenue Code Section (1)(f). However, the adjustment may not exceed 4% a year and the rounding amount is \$10.

Effective Date: The inflation adjustment for tax brackets first applies to the adjustment made for tax year 2019, with the 2018 income tax brackets being used first as the base year upon which adjustments made pursuant to Code Section 12-6-520, as amended by this Act, are made.

- **New South Carolina Dependent Exemption (Section 5)**

Code Section 12-6-1140(13) has been added to provide a South Carolina dependent exemption equal to \$4,110 for each eligible dependent of the taxpayer, including both qualifying children and qualifying relatives. To qualify, each dependent must meet the eligibility requirements of Internal Revenue Code Sections 151 and 152 for a qualifying child or relative, as those sections applied on January 1, 2017.

The exemption amount will be cumulatively adjusted by the Department each December 15 using the Chained Consumer Price Index for All Consumers, as published by the Bureau of Labor and Statistics of the Department of Labor, pursuant to Internal Revenue Code Section (1)(f), except the rounding amount is \$10. The Department will not adjust the exemption amount for tax year 2018.

Note: South Carolina otherwise conforms to the suspension of personal exemptions by the Tax Cuts and Jobs Act of 2017 and does not allow a personal exemption for the taxpayer or the taxpayer's spouse.

- **Deduction Amount for Dependents under Age 6 (Section 6)**

Code Section 12-6-1160, allowing a resident individual taxpayer an additional deduction for each dependent who has not reached age 6 during the tax year, has been amended to provide that the deduction amount is equal to the South Carolina dependent exemption amount allowed in Code Section 12-6-1140(13). This amount is \$4,110 for tax year 2018. Previously, the amount was based on the federal personal exemption amount; the federal personal exemption amount is zero for tax years 2018 through 2025.

- **Taxpayer Education (Section 7)**

The Department will educate taxpayers on the provisions of the South Carolina Taxpayer Protection and Relief Act, especially those that impact filing requirements or determination of taxable income.

- **Agency Report (Section 8)**

The Department, in coordination with the Revenue and Fiscal Affairs Office, will provide a report to the General Assembly by January 15, 2025 that specifies the many provisions of the Tax Cuts and Jobs Act of 2017 that expire after tax year 2025.

Effective Date: Applies to tax years beginning after 2017, except as otherwise provided.

Senate Bill 1043, Section 4 (Act No. 265)

**International Shipping Activities – Use of Federal Election**

Code Section 12-6-50(13) and Code Section 12-6-1110(B), which prohibited taxpayers from using an Internal Revenue Code alternative method for taxing international shipping activities, have been repealed. As a result of the repeal of these two code sections, South Carolina has adopted Internal Revenue Code Sections 1352 through 1359 that provide for the election to determine corporate tax on certain international shipping activities using per ton rate.

Effective Date: Tax years beginning after 2017

Senate Bill 1043, Section 7 (Act No. 265)

**Direct Broadcast Satellite Services Gross Receipts – New Provision**

Code Section 12-6-2295(A) provides that the term “gross receipts” as used in Code Section 12-6-2290 includes, but is not limited to, certain listed items if they have not been separately allocated. Code Section 12-6-2295(A)(7) has been added concerning apportionment of receipts from providing direct broadcast satellite service. The term “receipts” includes receipts from the provision of direct broadcast satellite service. These receipts are attributable to South Carolina in pro rata proportion of the costs of performing the service, including the costs of acquiring programming distribution rights and constructing and maintaining distribution infrastructure, that the service provider incurs within South Carolina. “Direct broadcast satellite service” is defined as “the distribution or broadcasting of programming or services by satellite directly to the subscriber’s premises without the use of ground receiving or distribution equipment, except at the subscriber’s premises or in the uplink process to the satellite.”

Effective Date: October 3, 2018 and applies to all open tax periods excluding assessments under judicial review as of October 3, 2018.

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

**Increase in Purchases of South Carolina Agricultural Products – New Credit**

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

Eligible Taxpayer. To be eligible to claim the credit in Code Section 12-6-3378, a taxpayer must meet the following requirements:

1. Qualify as an “agribusiness operation” or an “agricultural packaging operation” as defined in Code Section 12-6-3360 (jobs tax credit).

2. Increase its purchases of products by a minimum of 15% in a single calendar year over the “base year.” Base year initially means the total dollar purchases of products during the period from January 1 through December 31 of the same year. However, a taxpayer’s base year total dollar purchases of products must exceed \$100,000 to qualify for the credit. If the taxpayer did not purchase more than \$100,000 of products in the prior calendar year, then its base purchases must be measured by the initial January 1 through December 31 calendar year in which it meets the purchasing requirement. The base year must be recalculated each calendar year after the initial base year.

**Credit Amount.** The amount of credit for each taxpayer is determined by the Coordinating Council for Economic Development (“Council”) at the Department of Commerce, but cannot exceed \$100,000 per taxpayer in any tax year. The Council has sole discretion in allocating the credits and must consider certain criteria provided in the statute in awarding credits. The credit may be allocated on a monthly, quarterly, or annual basis. The maximum amount of tax credits allowed to all qualifying taxpayers for each calendar year from 2018 to 2027 is listed below:

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

**Application Process.** For each year a taxpayer claims the credit, the taxpayer must submit an application to the Council. The application must be submitted after the calendar year in which the increase in the purchase of products occurs. Along with the application, the taxpayer must attach a schedule which includes, but is not limited to, the following information: (1) a description of how the base year purchases of products and the increase in purchases was determined; (2) the amount of the base year purchases of products; (3) the amount of the increase in purchases of products for the taxable year stated as both a percentage increase and a total increase in purchases including information which shows that the taxpayer has purchased products in excess of the minimum amount required to claim the credit; (4) any tax credit used by the taxpayer in prior years; and (5) the amount of any credit carried over from prior years.

The Department of Commerce, upon consultation with the Department of Agriculture, may establish guidelines for applications, product certification record sheets, and checklists to ensure compliance with the provisions of Code Section 12-6-3378.

**Credit Carryforward.** If a taxpayer is awarded an income tax credit and the credit exceeds the taxpayer’s income tax liability for the tax year, the credit may be carried forward to the next five tax years. If the taxpayer is awarded a withholding tax credit, and the credit exceeds the taxpayer’s withholding tax liability for the taxable quarter that is not otherwise refunded under Title 12, the credit may be carried forward to the next 20 succeeding taxable quarters.

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

Effective Date: Tax years beginning after 2017



Senate Bill 1043, Section 1 (Act No. 265)

**Abandoned Buildings Credit – Repeal of Act Postponed**

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

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

Effective Date: October 3, 2018

Senate Bill 1043, Section 2 (Act No. 265)

**Abandoned Buildings Credit – Subdivision of Multi-floor Structure on National Register**

Code Section 12-67-140(E) has been added to provide that for building sites which have had no portion thereof placed into service before July 1, 2018, and upon which is located a redeveloped multi-floor structure that is listed on the National Register of Historic Places, the taxpayer may subdivide the structure into separate units in the manner provided for in Chapter 67, Title 12, except that up to seven separate floors may be considered seven separate subdivided units if a floor is redeveloped for the exclusive use as a residential apartment or apartments.

Before making an initial claim for tax credits pursuant to Chapter 67, in lieu of the requirements of Code Section 12-67-140(B)(1) (relating to filing a notice of intent to rehabilitate with the Department), a taxpayer using this new provision must notify the Department in writing of the taxpayer’s intent to claim tax credits pursuant to Chapter 67, Title 12, and must provide any information required by the Department, including, but not necessarily limited to, the location of the building site, the actual expenses incurred in connection with the rehabilitation of the building site, the number of units for which a credit is being claimed, and the date the building site will be placed in service.

Except as specifically provided otherwise in Code Section 12-67-140(E), taxpayers are subject to all other requirements of Chapter 67, Title 12.

Effective Date: Applies to eligible building sites placed in service after June 30, 2018.

Senate Bill 1043, Section 5.A, and 5.B (Act No. 265)

**Abandoned Buildings Credit – Allocation and Carryforward Amended**

Code Section 12-67-140(B) provides that the entire abandoned building income tax credit is earned in the taxable year in which the site (or applicable phase thereof) is placed in service, but

must be taken in equal installments over a three-year period beginning with that year. Code Section 12-67-140(B)(3)(a) has been amended to provide that any unused credit may be carried forward for the succeeding five years at the individual, partnership, or limited liability company level. Previously, the statute did not contain the language “at the individual, partnership, or limited liability company level.”

Code Section 12-67-140(B)(6) has been amended to provide that to the extent the taxpayer is a partnership or limited liability company taxed as a partnership, the credit, including any unused credit amount carried forward, may be passed through to the partners or members and may be allocated among any of its partners or members on an annual basis including, without limitation, an allocation of the entire credit or unused credit carryforward to any partner or member who was a partner or member at any time during the year in which the credit or unused carryforward is allocated. Previously, the statute did not address allocation of the credit on an annual basis or allocation to any partner or member who was a partner or member at any time during the year in which the credit or unused carryforward is allocated.

Effective Date: Applies to buildings placed in service after June 30, 2018.

Senate Bill 1043, Section 5.C (Act No. 265)

### **Certified Historic Credit – Allocation and Carryforward Amended**

Code Section 12-6-3535 provides an income tax credit for making qualified rehabilitation expenditures for rehabilitating a certified historic structure or a certified historic residential structure located in South Carolina. Code Section 12-6-3535(C)(1) provides that the credit must be taken in equal installments over a three-year period beginning with the year the property is placed in service. Code Section 12-6-3535(C)(1) has been amended to further provide that any unused portion of any credit installment may be carried forward for the succeeding five years at the individual, partnership, or limited liability company level. Previously, the statute did not contain the language “at the individual, partnership, or limited liability company level.”

Code Section 12-6-3535(C)(2) has been amended to provide that to the extent the taxpayer is a general partnership, limited partnership, limited liability company or other pass-through entity as defined in Code Section 12-6-545, the credit, including any unused credit amount carried forward, must be passed through to its partners and may be allocated among its partners including, without limitation, an allocation of the entire credit or unused credit carryforward to any partner who was a partner or member at any time during the year in which the credit or unused carryforward is allocated, in a manner agreed to by the partners or members. Previously, the statute did not address allocation to any partner who was a partner or member at any time during the year in which the credit or unused carryforward is allocated.

Effective Date: Applies to buildings placed in service after June 30, 2018.

Senate Bill 1043, Section 3 (Act No. 265)

**Textile Credit – Definitions Amended**

The South Carolina Textiles Communities Revitalization Act (Title 12, Chapter 65) provides a qualifying taxpayer a credit against either income taxes or real property taxes for the rehabilitation of an abandoned textile mill site in South Carolina. Code Section 12-65-20 contains numerous definitions applicable to the textile credit. The definitions for “textile mill site” and “rehabilitation expenses” have been amended.

The definition of “textile mill site” contained in Code Section 12-65-20(4) has been amended to read as follows:

“Textile mill site” means the textile mill together with the land and other improvements on it which were used directly for textile manufacturing operations or ancillary uses. However, the area of the site is limited to the land located within the boundaries where the textile manufacturing, dying, or finishing facility structure is located and does not include land located outside the boundaries of the structure or devoted to ancillary uses. Notwithstanding the provisions of this item, with respect to any site acquired by a taxpayer before January 1, 2008, a site located on the Catawba River near Interstate 77, or a site which, on the date the notice of intent to rehabilitate is filed, is located in a distressed area of a county in this State, as designated by the applicable council of government, the textile mill site includes the textile mill structure, together with all land and improvements which were used directly for textile manufacturing operations or ancillary uses, or were located on the same parcel or a contiguous parcel within one thousand feet of any textile mill structure or ancillary uses. For purposes of this item, “contiguous parcel” means any separate tax parcel sharing a common boundary with an adjacent parcel or separated only by a private or public road.

The definition of “rehabilitation expenses” contained in Code Section 12-65-20(8) has been amended to read as follows:

“Rehabilitation expenses” means the expenses or capital expenditures incurred in the rehabilitation, renovation, or redevelopment of the textile mill site, including without limitations, the demolition of existing buildings, environmental remediation, site improvements and the construction of new buildings and other improvements on the textile mill site, but excluding the cost of acquiring the textile mill site or the cost of personal property located at the textile mill site. For expenses associated with a textile mill site to qualify for the credit, the textile mill and buildings on the textile mill site must be either renovated or demolished. Rehabilitation expenses associated with new or rehabilitated buildings on a textile mill site that increases the amount of square footage of the buildings that existed on the site by more than two hundred percent must not be considered a rehabilitation expense for the purpose of calculating the credit.

Effective Date: Tax years beginning after 2017

**Job Development Credits – Qualified Service-Related Facility Definition Expanded**

Code Section 12-10-80 provides credits against employee withholding taxes to new or expanding businesses making qualifying investments, creating a minimum number of new jobs in South Carolina, and entering into a revitalization agreement with the South Carolina Coordinating Council for Economic Development (the “Council”). These credits are referred to as “job development credits.” In order to qualify for job development credits, a business must be engaged primarily in a business of a type identified in Code Section 12-6-3360 (jobs tax credit). One of the qualifying businesses is a “qualifying service-related facility” as defined in Code Section 12-6-3360(M)(13).

Code Section 12-10-80(K) has been added to lower the number of jobs required to be created to qualify as a qualified service-related facility for purposes of job development credits. The job creation requirements have been lowered as follows:

- Jobs required at a single location have decreased from 175 to 125;
- Jobs required at a single location comprised of a building or portion of a building that has been vacant for at least twelve consecutive months before the taxpayer’s investment have decreased from 150 to 100;
- Jobs required at a single location where the jobs have an average cash compensation level of more than one and one-half times the lower of state per capita income or per capita income in the county where the jobs are located have decreased from 100 to 75.

Other compensation level and job creation requirements for taxpayers qualifying as a qualifying service-related facility have not changed.

Code Section 12-10-80(L) has also been added to allow (1) a business engaged in legal, accounting, banking, or investment services operating at a single facility, and (2) a business generally engaged in retail sales at a single facility if no retail sales are conducted at that single facility to qualify as a “qualifying service-related facility,” in the Council’s discretion, for purposes of job development credits if the business otherwise meets the job creation and/or compensation level requirements in the statute. In making its determination the Council may consider the factors listed in Code Section 12-10-80(L).

Effective Date: Tax years beginning after 2017

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

Senate Bill 1043 (Act No. 265)

## **Abandoned Buildings Credit and Textile Credit - Amended**

For changes made concerning the abandoned buildings credit and the textile credit, see the summaries in “Income Taxes, Bank Taxes, Withholding, and Corporate License Fees” section.

## **MISCELLANEOUS**

### **ADMINISTRATIVE and PROCEDURAL MATTERS**

Senate Bill 1043, Section 8 (Act No. 265)

#### **Revenue Procedures Act – Definitions, Appeals Procedures, and Refunds**

The South Carolina Revenue Procedures Act, Title 12, Chapter 60 (the “Act”), provides taxpayers with procedures for resolving disputes with the Department and county property tax officials. The Act has been amended to address certain matters involving the Department and counties and to make other changes as described below.

Definitions. Code Section 12-60-30 has been amended to add the following definitions:

- “Local governing body” means, for property tax purposes, the governing body of a county, municipality, or other political subdivision that is entitled to receive any portion of the tax revenue generated from a property tax assessment.
- “Affected county” means, for property tax purposes, a county that administers property tax collections for its own jurisdiction or for another local governing body and is in a property tax dispute with a taxpayer.
- “Chief executive officer” means, for property tax purposes, the official identified in Code Section 8-13-1110(B)(5).
- “Chief administrative official” means, for property tax purposes, the official identified in Code Section 8-13-1110(B)(6).

The definition of “department determination” under Code Section 12-60-30 has been amended as follows:

- “Department determination” means the final determination within the Department from which a taxpayer or a local governing body, as applicable, may request a contested case hearing before the Administrative Law Court.

Department Determinations. Code Section 12-60-450(E) has been amended to require the Department to issue a written department determination if a taxpayer files a protest or claim, even if the decision is not adverse to the taxpayer. Prior to the amendment, the Department was required to issue a written department determination only if the department determination was adverse to the taxpayer. In addition, in the case of a property tax dispute, the Department must send the written department determination to both the taxpayer and any affected county. Code Section 12-60-450(E) was also amended to clarify that, in addition to the taxpayer, any local governing body may request a contested case hearing. See also Code Section 12-60-2130.

The Department now has one year from the date the taxpayer files a written protest or claim to issue a department determination unless the Administrative Law Court grants an extension (not to exceed six months). If the Department does not issue the department determination timely, the Department must notify the taxpayer and any affected county of the right to request a contested case hearing before the Administrative Law Court. The request for a contested case hearing must be made within 30 days after the Department sends notice by first class mail or notice is delivered to the taxpayer or any affected county.

When providing notice to affected counties, the Department must notify the chief executive officer, auditor, assessor, and treasurer of each affected county. Upon receiving such notice from the Department, the county auditor must notify any local governing bodies by notifying the chief administrative official of each local governing body.

Property Tax Assessments, Exemptions, and Refunds for Property Tax Matters Administered by the Department. Code Sections 12-60-2120(A) and (B) have been amended to require the Department to notify any affected counties when a taxpayer protests a property tax assessment, and to notify any affected counties when a taxpayer, other than an individual, files a written protest regarding the denial of a tax exemption by the Department.

Code Section 12-60-2150(B) was amended to specify that when a taxpayer files a claim for refund, the Department must notify the chief executive officer, auditor, assessor, and treasurer of each affected county. Upon receiving notice from the Department, the county auditor must notify any local governing bodies by notifying the chief administrative official of each local governing body.

Code Section 12-60-2150(D) was amended to require the Department to provide a taxpayer written notice of its determination of what refund is due, if any, as soon as practicable, but no later than six months after the date the claim for refund was filed with the Department. If the Department fails to issue written notice of its determination timely, the failure is considered a written denial of the refund claim.

Code Section 12-60-2150(F) was amended to require the Department to issue a department determination in accordance with Code Section 12-60-450(E) when responding to a taxpayer's written protest.

Code Section 12-60-2140(C) was amended to provide that following a final determination on a property tax protest, if the assessment is less than the adjusted property tax assessment, a corrected property tax assessment must be made and entered, provided that a refund is not due for any tax year before the three tax years immediately preceding the final determination unless the Administrative Law Court approves the refund.

Effective Date: October 3, 2018