



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

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SC INFORMATION LETTER #20-19

SUBJECT: Tax Legislative Update for 2020

DATE: July 9, 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: 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.

Overview of the 2020 Legislative Session

South Carolina's legislative sessions begin the second Tuesday in January and end the second Thursday in May. Due to the public health emergency associated with the Coronavirus (COVID-19), the General Assembly's legislative activity was limited during the normal legislative session.

On May 12, 2020, the General Assembly passed Senate Bill 1194, a concurrent resolution allowing the General Assembly to reconvene during the upcoming months with adjournment by November 8, 2020.

On May 18, 2020, the Governor signed House Bill 3411 (Act No. 135), a continuing resolution to provide, in part, for the continuing budget for fiscal year July 1, 2020 – June 30, 2021 during this challenging COVID time. This Act is temporary and provides that the effective dates of Act No. 91 of 2019, Parts IA and IB, (the appropriations budget in effect for fiscal year July 1, 2019 – June 30, 2020) are extended. It is the intent of the General Assembly to approve a Fiscal Year 2021 budget when they reconvene in September.

2020 Legislation – As of May 12, 2020

Attached is a brief summary of Senate Bill 76, Senate Bill 975, House Bill 3695, and House Bill 3998 enacted by the General Assembly through May 12, 2020. The bills are summarized by tax type in bill number order.

This is intended to be a summary of the main points of the legislation; it is not an interpretation by the Department. Please refer to the full text of the legislation for specific details and requirements. A complete copy of the legislation discussed can be obtained from the South Carolina Legislature's website at scstatehouse.gov.

2020 Legislation – After May 2020

If additional tax or regulatory legislation that is administered by the Department is passed when the General Assembly reconvenes in September, the Department will publish a subsequent Information Letter.

INCOME TAXES, BANK TAXES, AND CORPORATE LICENSE FEES

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

Energy Efficient Manufactured Home – Credit Extended

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

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

Effective Date: May 26, 2020

Senate Bill 76, Section 3 (Act No. 138)

High Growth Small Business Job Creation Act (“Angel Investor Credit”) – Repeal of Act Extended and Carryforwards after Credit Repeal

The South Carolina “High Growth Small Business Job Creation Act (Title 11, Chapter 44) was enacted in 2013 (Act No. 80) to improve the availability of early stage capital for emerging high-growth enterprises in South Carolina. To further this goal, the Act encourages individual angel investors to invest in early stage, high-growth, job-creating businesses by providing an angel investor an income tax credit of 35% of its qualified investment. Act No. 80 of 2013 contained a repeal provision stating that the Act is repealed on December 31, 2019. Any carryforward will continue to be allowed until the 10 year period is completed.

Under this Act, the angel investor credit is extended as it existed on December 31, 2019. The provisions of Chapter 44, Title 11, are re-enacted and are repealed on December 31, 2025. Any credit carry forward shall continue to be allowed until the 10 year time period in Code Section 11-44-40(B) is completed.

See SC Revenue Ruling #14-6 for more information regarding the angel investor credit.

Effective Date: Tax years beginning after 2019

House Bill 3998 (Act No. 137)

South Carolina Housing Tax Credit - New Tax Credit

The “Workforce and Senior Affordable Housing Act” has been enacted to add Code Section 12-6-3795 to provide a tax credit to eligible owners of residential low-income rental buildings. The credit amount for a qualified project is equal to the federal low-income housing credit allowed under Internal Revenue Code Section 42, “Low-Income Housing Credit.” A building owner must obtain a housing credit allocation from the South Carolina Housing and Finance Development Authority and certify certain information to be eligible to claim the credit.

The new South Carolina housing tax credit applies to projects placed in service after January 1, 2020 and before December 31, 2030. A sole proprietor, partnership, corporation, limited liability company or association taxable as a business entity subject to South Carolina income tax, bank tax, or insurance premium tax is eligible for the credit. The certification process and credit requirements are summarized below.

Eligibility Process and Credit Certification. To be eligible for the credit, a project must receive an “eligibility statement” issued by the South Carolina Housing and Finance Authority. The eligibility statement certifies that a given project qualifies for the credit. The Authority may not issue the eligibility statement until the taxpayer provides a report detailing how the credit will benefit tenants at the project, including, reduced rent, or why the state credit is necessary to undertake the project.

Pursuant to the Act, the Authority shall promulgate rules establishing criteria upon which the eligibility statements are issued which must include consideration of evidence of local support for the project.

Credit Amount and Carryforward. The eligibility statement will specify the amount of the credit allowed for each project. The credit is equal to the federal housing tax credit allowed for the project as provided in Internal Revenue Code Section 42. The credit may be used against individual or corporate income taxes under Code Sections 12-6-510 and 12-6-530; corporate license fees under Chapter 20, Title 12; bank taxes under Chapter 11, Title 12; or insurance premium and retaliatory taxes under Chapter 7, Title 38. The total tax credit for any tax year cannot exceed the taxpayer’s income tax liability. Any unused credit may be carried forward five years. The taxpayer may not apply the credit against any prior years’ tax liability.

Credit Allocation. The credit (and any recaptured credit explained below) must be allocated among some or all of the partners, members, or shareholders of the entity owning the project in any manner agreed to, regardless of whether such persons are allocated or allowed any portion of the federal housing tax credit.

Credit Recapture. If a portion of any federal housing tax credit taken on a project is required to be recaptured, the taxpayer claiming any South Carolina credit for that project also is required to recapture a portion of any South Carolina credit.

Definitions. For purposes of this Act, “qualified project,” “project,” and “median income” are defined as follows:

Qualified Project. A “qualified project” is a qualified low-income building as defined in Internal Revenue Code Section 42 that is located in South Carolina and receives approval for tax credits from the South Carolina Housing and Finance Development Authority.

Project. A project is a housing project that has restricted rents that do not exceed 30% of income for at least 40% of its units occupied by persons or families having incomes of 60% or less of the median income, or at least 20% of the units occupied by persons or families having incomes of 50% or less of the median income.

Median Income. Median income means those incomes that are determined by the federal Department of Housing and Urban Development guidelines and adjusted by family size.

Credit Expiration. The tax credit is allowed for qualified projects placed in service after January 1, 2020 and before December 31, 2030.

Effective Date: Applies to qualified projects that receive an eligibility statement after
May 14, 2020

PROPERTY TAX

Senate Bill 975, Section 5 (Act No. Unassigned)

Consolidation of Clarendon County School Districts 1 and 3 – Millage

Effective July 1, 2021, Clarendon County School District 1 and Clarendon County School District 3 are abolished. The powers and duties of the two school districts' respective boards of trustees will devolve on the board of trustees of a consolidated school district to be known as Clarendon County School District 4.

For purposes of determining the 2021 property tax millage levy of new School District 4, the millage levy will be determined and calculated by the Department based on the 2020 levy of School Districts 1 and 3 and the value of a mill in each district. The millage levy for 2022 must be the millage levy for the previous year. The allowed millage levy calculated for 2021 and 2022 may be increased by the Department if necessary to comply with educational mandates imposed by state or federal law.

Beginning in 2023, the new board of trustees is authorized to impose an annual tax levy, exclusive of any millage imposed for bond debt service. Upon certification to the county auditor of the tax levy to be imposed, the auditor will levy, and the county treasurer will collect, the certified millage upon all taxable property in School District 4. School District 4 may raise its millage by two mills or less over the millage levied for the previous year in addition to any millage needed to adjust for the Education Finance Act inflation factor and sufficient to meet the requirements of Code Section 59-21-1030 (level of financial effort per pupil required for each school district). Any increase for operations above the two mill increase, may be levied only after a majority of the registered electors of the new district vote in favor of a millage increase in a referendum called by the district school board and conducted by the county election commission. If these provisions conflict with the provisions of Code Section 6-1-320, relating to millage rate increase limitations, the provisions of Code Section 6-1-320 control.

Effective Date: March 4, 2020

House Bill 3695 (Act No. 126)

Adjustments to Vehicle Valuations and Motorcycles for High Mileage

Code Section 12-37-2680, which provides for valuation of motor vehicles for personal property tax purposes to be determined from guides or manuals provided to county auditors by the Department, has been amended to address the following:

1. The current guides or manuals must include appropriate adjustments to those values to reflect high mileage for all motor vehicles in such guides or manuals.

2. If the Department determines that there is no high mileage adjustment reasonably available for motorcycles or motorcycle three-wheel vehicles from a specific source, then the high mileage threshold requirements for these vehicles are deemed to be two-thirds of the average of adjustments for other private passenger motor vehicles for which information is available as determined by the Department.

Effective Date: March 24, 2020

SALES AND USE TAX

Senate Bill 76, Section 2 (Act No. 138)

Certain Energy Efficient Manufactured Homes – Exemption Extended

Code Section 12-36-2110(B) allows an exemption on the sale of a manufactured home designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each agency's energy saving efficiency requirements or designated as meeting or exceeding such requirements under each agency's ENERGY STAR program. The exemption was effective from July 1, 2009 through July 1, 2019. Act No. 91 extended the exemption for sales of qualifying manufactured homes until June 30, 2020.

This Act extends the exemption for sales of qualifying manufactured homes to July 1, 2024.

Effective Date: May 26, 2020