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SC INFORMATION LETTER #92-17

TO: Vicki Ringer  
Public Information Director

FROM: Deana West, Tax Analyst  
Tax Policy and Appeals Department

DATE: May 14, 1992

SUBJECT: Changes in Tax Laws

REFERENCE: Act 361 of 1992

AUTHORITY: S.C. Code Ann. Section 12-4-320 (Supp. 1991)  
SC Revenue Procedure #87-3

SCOPE: An Information Letter is a temporary document issued for the purpose of disseminating general tax information and to respond to technical questions from within the Commission which are not related to a specific set of facts.

Act 361 of 1992 was enacted into law on May 4, 1992 upon approval by the Governor. The purpose of this Information Letter is to highlight the significant tax provisions contained in this bill.

This information letter is arranged by the type of tax affected by the law change as follows: Administrative, Income, Miscellaneous, Property and Sales. The section number of Act 361 of 1992 that contains the law change and its effective date are provided.

Several provisions of this bill are complex and will be discussed in detail in separate Information Letters, as referenced in this document.

## ADMINISTRATIVE

### Section 29.

Subject: **Debt Setoff Collection**

Amendment: Code Section 12-54-420(1) has been amended to allow political subdivisions to participate in the Setoff Debt Collection Act.

Effective Date: May 4, 1992

## INCOME TAX

### Section 5.

Subject: **Net Income of Public Corporations**

Amendment: Code Section 12-7-640 has been amended by adding a provision for the apportionment of income derived from the operation of a shipping line on the basis of revenue tons.

Effective Date: Tax years beginning after December 31, 1992

### Section 6.

Subject: **Filing Requirements of Organizations Exempt Under IRC  
Section 501 and Cooperatives**

Amendment: Organizations exempt under IRC Section 501 are only required to file income tax returns if they have unrelated business income. Cooperatives described in IRC Section 1381 are only required to file income tax returns if they have taxable income under IRC Sections 1382 and 1383.

In addition, organizations exempt under IRC Section 501 are not required to pay the corporate annual license fee or file an annual report.

See Information Letter 92-15.

Effective Date: Tax years beginning on or after January 1, 1993

Section 7.

**Subject: Corporations Administratively Dissolved**

Amendment: Code Section 12-7-1675 has been amended to provide that the Tax Commission cannot make an estimated assessment against a corporation prior to referring the taxpayer to the Secretary of State for administrative dissolution.

Effective Date: May 4, 1992

Section 10.

**Subject: Withholding on Nonresident Contractor - Exemptions**

Amendment: Under certain circumstances, the Tax Commission may grant partial or total exemption from the nonresident contractor withholding requirements. See Information Letter 92-16 for a complete discussion.

Effective Date: Tax years beginning after December 31, 1992

Section 11.

**Subject: Withholding Agent Liability**

Amendment: Code Section 12-9-420 has been amended to clarify the personal liability of individuals responsible for withholding and paying over taxes.

Effective Date: May 4, 1992

**MISCELLANEOUS TAXES**

Section 13.

**Subject: Admissions to a Place of Amusement**

Amendment: Code Section 12-21-2575 was added to allow the Commission to approve alternative methods of accounting for admissions to a place of amusement. Prior to this amendment, the law required that patrons receive an admission ticket to enter a place of amusement.

Effective Date: May 4, 1992

Section 14.

Subject: **Coin-Operated Device License**

Amendment: Code Section 12-21-2720 has been amended to exempt from the coin-operated license requirements any machine on which an admissions tax is imposed.

Effective Date: May 4, 1992

Section 15.

Subject: **Calculating Amount of Fuel Used by Motor Carriers**

Amendment: Code Section 12-31-420 has been amended to revise the method of calculating amounts of fuel used by a motor carrier in accordance with nationally recognized standards.

Effective Date: Returns due on or after July 1, 1992

**PROPERTY TAX AND FEE-IN-LIEU PAYMENTS**

Section 22.

Subject: **Minimal Assessment**

Amendment: Code Section 12-39-180 has been amended to provide that a minimal assessment of twenty dollars be placed on all property that generates a tax bill.

Effective Date: May 4, 1992

Section 23.

Subject: **Assessment Ratio For Legal Residence**

Amendment: Code Section 12-43-220(c) have been amended to extend the time for filing for the four percent ratio applicable to an owner-occupied legal residence. The time for filing has been extended to the day before the first penalty date for taxes due for the first tax year for which the assessment is claimed.

Effective Date: For property tax years beginning after 1990

Section 25.

**Subject: Refund of Incorrect Property Taxes**

Amendment: Code Section 12-47-70 has been amended to provide a refund period of three years from the date the taxes could have been paid without a late payment penalty. Prior to this amendment the law required the claim for abatement or refund be made within five years from the date of the assessment or collection.

Effective Date: Tax years beginning after December 31, 1992

Sections 35, 36, and 37.

**Subject: Fee-in-lieu**

Amendment: Code Sections 4-29-68 and 4-1-170 were amended to allow counties or municipalities that receive fee-in-lieu of property tax payments to issue special source revenue bonds secured by and payable from a portion or all of the fee. The money raised from the sale of the bonds can be used to make infrastructure improvements for the business paying the fee or for an industrial park in which the business is located.

Amendment: Code Section 4-29-67 was amended to clarify a number of issues concerning the fee-in-lieu of property taxes for investments in excess of 85 million dollars. The changes include the following:

1. Requiring that an investment be in a single county or an industrial development park;
2. Allowing subsidiaries of corporations to combine investments to meet the minimum 85 million dollar level;
3. Clarifying the time period in which an investor must complete a project;
4. Providing when the millage rate and discount rate for calculating the fee should be established;
5. Allowing for a recalculation of the fee when property is replaced or disposed of;
6. Providing that all agreements between counties and investors executed before March 15, 1992 will be binding on the parties with regard to how the fee is calculated and allows parties to renegotiate replacement provisions and the provisions for the disposal of property which are consistent with the new law.

Effective Date: May 4, 1992

## SALES AND USE TAXES

### Section 16.

#### Subject: **Various Sales and Use Tax Technical Corrections**

Amendment: This amendment makes technical corrections to Code Sections 12-36-120, 12-36-910, 12-36-920, 12-36-930, 12-36-2120, 12-36-2560, and 12-36-2650.

#### Subject: **Penalties for Retail License Violations**

Amendment: Code Section 12-36-560 was added to provide for the imposition of criminal penalties upon persons engaging in business without a retail license or after the license has been revoked. This violation is considered a misdemeanor that is triable in magistrate's court. Upon conviction, a fine not exceeding \$200, 30 days in jail or both may be imposed.

Amendment: Code Section 12-36-570 was added to provide for the imposition of civil penalties not exceeding \$500 for persons who do not pay the license tax, obtain a license or comply with commission regulations.

Effective Date: May 4, 1992

#### Subject: **Penalties for Casual Excise Tax Violations**

Amendment: Code Section 12-36-1730 was added to provide for the imposition of criminal penalties for persons avoiding or assisting in the avoidance of the casual excise tax. This violation is considered a misdemeanor that is triable in magistrate's court. Upon conviction, a fine not exceeding \$200, 30 days in jail or both may be imposed.

Amendment: Code Section 12-36-1740 was added to provide for the imposition of civil penalties not exceeding \$500 for persons who do not pay the casual excise tax, or comply with commission regulations.

Effective Date: May 4, 1992