



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

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SC INFORMATION LETTER #16-11

SUBJECT: Tax Legislative Update for 2016

DATE: October 10, 2016

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.

Attached is a brief summary of most of the significant changes in tax and regulatory laws enacted during the past legislative session. The summary is divided into categories, by subject matter, as indicated below.

Note: The South Carolina-North Carolina boundary clarification legislation, which affects multiple taxes for certain taxpayers impacted by the boundary clarification, is summarized in the "Miscellaneous - Other Items Section" below.

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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.

Legislation regarding insurance premium taxes, unemployment taxes, distribution of funds, millage rate changes, and other similar provisions are not summarized. There may be instances where some tax or incentive related legislation briefly summarized is under the jurisdiction of another state agency or political subdivision and not the Department. In such cases, questions concerning these provisions should be made directly to the agency or political subdivision 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 <http://www.scstatehouse.gov/>.

LIST OF BILLS BY SUBJECT CATEGORY

A list of significant changes in tax and regulatory laws (both permanent and temporary) enacted during the 2016 legislative session is provided below. Temporary provisos are enacted in the State budget and are only effective for the State fiscal year (July 1 – June 30). Unless reenacted, temporary provisos expire on June 30, 2017.

Also included are reminders of provisions which were enacted in a prior year but are effective in 2016 or thereafter. These provisions are indicated as “reminders” in the chart below.

This list is divided by subject matter with the bills listed in numeric order. The list of bills with a link to the full text of each act is on the Department’s website, www.dor.sc.gov.

INCOME TAXES, BANK TAXES, WITHHOLDING and CORPORATE LICENSE FEES

BILL #	ACT #	SUBJECT
227	255	Redevelopment Fees to Redevelopment Authorities – Extension and Limitation
427 – Sec. 1-4	256	Job Tax Credit – Eligibility Expanded
1122 – Sec. 3	269	Alternative Fuel Property - New Credit
3147 – Sec. 1	272	Military Individual – Earned Income and Retirement Income - New Deduction – General Retirement and Age 65 and Older Deduction - Amended
3147 – Sec. 2	272	Textile Revitalization Credit – Allocation and Carryforward Amended
3576	155	Nonprofit Youth Sports Organizations – New Rules for Withholding on Coaching Services
3768	165	South Carolina ABLE Savings Program
3874 – Sec. 1	134	Solar Energy Property – New Credit
3874 – Sec. 2	134	Solar Energy or Hydropower System Credit – Expanded to Geothermal Machinery and Equipment
4328 – Sec. 3	160	Internal Revenue Code Conformity
4765 – Sec. 1	280	South Carolina Association of Habitat for Humanity Affiliates – New Check-Off
4765 – Sec. 2	280	Deer Processing Credit – Credit Increased
5001 – Proviso 1A.9	284	Teaching Supplies and Materials – Reimbursement Amount Not Taxable or Refundable Income Tax Credit – New Temporary Proviso
5001 – Proviso 1A.10	284	Teacher of the Year Awards – Not Subject to South Carolina Income Tax – Reenacted Temporary Proviso
5001 – Proviso 109.15	284	Educational Credit for Exceptional Needs Children – New Temporary Proviso
5001 – Proviso 117.142	284	Retail Facilities Revitalization Act – Repeal of Act Suspended – New Temporary Proviso
5001 – Proviso 118.10	284	Consumer Protection Services – Individual Income Tax Deduction - Reenacted Temporary Proviso
5009	179	Textile Revitalization Credit – Credit Limitation Deleted

PROPERTY TAXES and FEES IN LIEU OF PROPERTY TAXES

BILL #	ACT #	SUBJECT
932	206	Military Member’s Residential Property – Change in Application Due Date for 4% Legal Residence Assessment Ratio
1122 – Sec. 2	269	Valuation of Alternative Fuel Motor Vehicles of Motor Carriers – Reduction of Gross Capitalized Cost

PROPERTY TAXES and FEES IN LIEU OF PROPERTY TAXES (CONTINUED)

3313 – Sec. 1-3	251	Property Tax Value of “Green Space for Conservation” or “Open Space” for Roll-Back Tax Purposes – New
3313 – Sec. 4 and 7	251	Legal Residence Certification – Liability for Penalties Amended
3313 – Sec. 5	251	Electronic Property Tax Bill and Receipt – New Procedure
3313 – Sec. 6	251	Applicability of Roll-Back Taxes to Agricultural Property
3710	237	Multiple Lot Discount – Additional Year of Eligibility
4712	167	Off-Premises Outdoor Advertising Signs and Sites
4762	276	Exception to Limitation on Millage Rate Increase for Purchasing Capital Equipment – Qualifications Expanded
5001 – Proviso 1.51	284	Index of Taxpaying Ability – Imputed Value for Owner-Occupied Residential Property – Reenacted Temporary Proviso
5001 – Proviso 113.9	284	Agricultural Use Exemption for Timberland – Impact of Additional County Requirements – New Temporary Proviso
5001 – Proviso 117.38	284	Personal Property Tax Relief Fund – Reenacted Temporary Proviso
5001 – Proviso 117.142	284	Retail Facilities Revitalization Act – Repeal of Act Suspended – New Temporary Proviso

SALES AND USE TAXES

BILL #	ACT #	SUBJECT
427 – Sec. 5	256	Agricultural Packaging Machine – New Exemption
3568 – Sec. 1	69 (2015)	Construction Materials Used by Nonprofit Corporations – New Exemption – Reminder
3568 – Sec. 2	69 (2015)	Parts or Supplies Used to Repair Aircraft – Exemption Amended – Reminder
3568 – Sec. 3	69 (2015)	Children’s Clothing Sold to a Private Charitable Organization – New Exemption – Reminder
3891 – Sec. 1	224	Vehicle License Fees – Subject to State and Local Sales and Use Tax
3891 – Sec. 2	224	Heavy Equipment Rental Fee – Not Subject to State and Local Sales and Use Tax
4328 – Sec. 7	160	Natural Gas and Liquefied Petroleum Gas For Use as Motor Fuel – New Exemptions
5001 – Proviso 117.37	284	Private Schools – Use Tax Exemption – Reenacted Temporary Proviso
5001 – Proviso 117.57	284	Respiratory Syncytial Virus Medicines Exemption – Effective Date – Reenacted Temporary Proviso
5001 – Proviso 117.61	284	Viscosupplementation Therapies – Sales and Use Tax Suspended – Reenacted Temporary Proviso

MISCELLANEOUS

BILL #	ACT #	SUBCATEGORY	SUBJECT
		Administrative & Procedural	
4328 – Sec. 1-2	160		Fourth Quarter Withholding Return and Annual Reconciliation – Due Date Change
4328 – Sec. 2	160		Forms W-2 and 1099 Submission by Withholding Agent – Due Date Change
4328 – Sec. 4.A-4.B	160		Corporate and Partnership Returns – Due Date Change
4328 – Sec. 4.B	160		Withholding on Nonresident Partners – Due Date Change
4328 – Sec. 4.C	160		Savings and Loan Association Return – Due Date Change
4328 – Sec. 4.D	160		Corporate Annual Report and Corporate License Fee – Due Date Change

MISCELLANEOUS (CONTINUED)

5001 – Proviso 93.7	284		2% Reduction on Interest Rate on Tax Refunds – Reenacted Temporary Proviso
5001 – Proviso 109.6	284		Voluntary Website Posting of Tax Return Information for Candidates and Gubernatorial Appointees – Reenacted Temporary Proviso
5001 – Proviso 117.86	284		Additional 1% Reduction on Interest Rate on Tax Refunds – Reenacted Temporary Proviso
		Miscellaneous Taxes	
1122 – Sec. 1	269		Motor Fuel User Fee – Alternative Fuel
4151	149		Cigarette Stamp Tax Program – New Process
4328 – Sec. 5-6	160		Motor Fuel User Fee – Liquefied Natural Gas, Compressed Natural Gas and Liquefied Petroleum Gas
4328 – Sec. 8	160		License Requirement for Importing Certain Motor Fuel – Amended
5001 – Proviso 1.15	284		Local Government School Buses – Motor Fuel Tax Exemption – Reenacted Temporary Proviso
5001 – Proviso 33.10	284		Nursing Home Bed Franchise Fee – Suspension – Reenacted Temporary Proviso
5001 – Proviso 109.7	284		Admissions Tax Exemption for Payment to Nonprofit Athletic Booster Organizations for Right to Purchase Athletic Event Season Tickets – Reenacted Temporary Proviso
5001 – Proviso 118.7	284		Admissions Tax Rebate – Motorsports, Tennis, and Soccer Facilities – Reenacted Temporary Proviso
		Other	
277	181		Telecommunication Providers – Dual Party Relay Charges and Universal Service Fund
667	270		Boundary Clarification Between South Carolina and North Carolina
1111	214		License Plate Fee Amended
1233	182		Education Capital Improvements Sales and Use Tax – Eligibility Requirements Amended
3891 – Sec. 1	224		Vehicle License Fee
3891 – Sec. 2-3	224		Heavy Equipment Rental Surcharge – Repealed Heavy Equipment Rental Fees – New
4717	174		South Carolina Farm Aid Fund
5011	249		Local Tourism Development Sales and Use Fee – Reimposed
5078 – Sec. 1	250		Local Sales and Use Taxes – General Election Defined
5078 – Sec. 2-4	250		Capital Projects Sales and Use Tax – Amended
		Regulatory	
5001 – Proviso 117.106	284		Donation of Alcoholic Liquors – Reenacted Temporary Proviso
5034	254		Bingo Tax Act – Amended
5245	248		Coupons and Rebates for the Purchase of Wine and Beer

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

House Bill 4328, Section 3 (Act No. 160)

Internal Revenue Code Conformity

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 December 31, 2015, and includes the effective date provisions contained therein.

Extension of Expiring Federal Provisions. Code Section 12-6-40(A)(1)(c) provides that if during 2016 the federal government extends, without otherwise amending, Internal Revenue Code provisions that expired on December 31, 2015, then these sections or portions of sections which have been adopted by South Carolina will be extended in the same manner they are for federal income tax purposes.

Effective Date: April 21, 2016

House Bill 4765, Section 1 (Act No. 280)

South Carolina Association of Habitat for Humanity Affiliates – New Check-Off

Code Section 12-6-5060, which provides for various voluntary contributions to certain funds and organizations on the South Carolina individual income tax return, has been amended to provide for a designation for a taxpayer to make a contribution to the South Carolina Association of Habitat for Humanity Affiliates.

Effective Date: June 22, 2016

House Bill 3147, Section 1 (Act No. 272)

Military Individual - Earned Income and Retirement Income – New Deduction - General Retirement and Age 65 and Older Deduction – Amended

Code Section 12-6-1170 provides an income tax deduction for an individual with retirement income and an income tax deduction for persons 65 and older. Code Section 12-6-1171 has been added to provide an income tax deduction for (a) an individual under age 65 with South Carolina earned income and military retirement income or (b) an individual age 65 and older with military retirement income. With the addition of Code Section 12-6-1171, Code Section 12-6-1170 has been amended to provide for a reduction in the deduction allowed by an amount claimed under Code Section 12-6-1171. A summary of new Code Section 12-6-1171 and the related amendment to Code Section 12-6-1170 is provided below.

I. Summary of New Code Section 12-6-1171.

- A. Individual Under Age 65 with South Carolina Earned Income and Military Retirement Income. Code Section 12-6-1171(A)(1) provides that an individual who has military retirement income 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. For purposes of this item, South Carolina earned income has the same meaning as provided in Code Section 12-6-3330. The deduction amount is phased in as follows:

Tax Year Beginning In	Deduction Amount Not to Exceed
2016	\$ 5,900
2017	\$ 8,800
2018	\$11,700
2019	\$14,600
2020 and thereafter	\$17,500

In the case of married taxpayers who file a joint federal income tax return, the deduction is 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.

- B. Individual Age 65 and Older with Military Retirement Income. Code Section 12-6-1171(A)(2) provides that beginning in the year in which an individual reaches age 65, an individual who has military retirement income may deduct his military retirement income that is included in South Carolina taxable income. The deduction amount is phased in as follows:

Tax Year Beginning In	Deduction Amount Not to Exceed
2016	\$18,000
2017	\$21,000
2018	\$24,000
2019	\$27,000
2020 and thereafter	\$30,000

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 other retirement income, an additional retirement deduction is allowed.

- C. Definitions of Retirement Income. For purposes of Code Section 12-6-1171, the term “retirement income” 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.

II. Summary of Code Section 12-6-1170 and New Code Section 12-6-1170(C) for Military Individuals.

- A. Code Section 12-6-1170(A) – General Retirement Income Deduction. Code Section 12-6-1170(A) continues to provide an annual income tax deduction from South Carolina taxable income for retirement income to the owner of a qualified retirement account. The qualifying taxpayer receiving retirement income may deduct up to \$3,000 of such retirement income annually until reaching age 65, and deduct up to \$10,000 of such retirement income annually at age 65 and thereafter. In addition, a surviving spouse is allowed a deduction for income received from his or her retirement plan, if any, and a separate deduction for retirement income that is attributable to the deceased spouse, if any.
- B. Code Section 12-6-1170(B) – Deduction for Age 65 and Older. Code Section 12-6-1170(B) continues to provide an income tax deduction of up to \$15,000 against any South Carolina taxable income of a resident individual who is 65 or older by the end of the tax year. Taxpayers filing a joint return are allowed a deduction of up to \$15,000 when only one spouse is 65 or older, and up to \$30,000 when both spouses are 65 or older, by the end of the tax year. Amounts deducted as retirement income under Code Section 12-6-1170(A) reduce the \$15,000 deduction. Amounts deducted as a surviving spouse under Code Section 12-6-1170(A) do not reduce this \$15,000 deduction.
- C. New Code Section 12-6-1170(C) – Military Individuals Claiming a Deduction Under Code Section 12-6-1171. Code Section 12-6-1170(C) has been added to provide modifications to the amounts allowed under the general provisions of Code Section 12-6-1170(A) and (B). It provides:
1. If a taxpayer claims a deduction under Code Section 12-6-1171, then the deduction allowed under Code Section 12-6-1170 must be reduced by the amount the taxpayer deducts under Code Section 12-6-1171. This reduction does not apply if the deduction claimed under Code 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, this reduction applies to each individual separately, so that the 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.

Effective Date: Applies to tax years beginning after 2015.

South Carolina ABLE Savings Program

Purpose. The “South Carolina ABLE Savings Program” has been established in Title 11, Chapter 5, Article 3. The purpose of the ABLE Program is to authorize the establishment of savings accounts empowering individuals with a disability and their families to save private funds which can be used to provide for disability related expenses in a way that supplements, but does not supplant, benefits provided through private insurance, the Medicaid program under Title XIX of the Social Security Act, the supplemental security income program under Title XVI of the Social Security Act, the beneficiary’s employment, and other sources; and to provide guidelines for the maintenance of these accounts.

Administration of ABLE Program. The State Treasurer will implement and administer the program. Some key aspects of the ABLE Program established in Code Section 11-5-440 are summarized below.

General Provisions of ABLE Program. Code Section 11-5-440 provides that an ABLE savings account established pursuant to Article 3 must be opened by a designated beneficiary, a designated beneficiary’s agent under a durable power of attorney, a trustee holding funds for the benefit of a designated beneficiary, or a court appointed guardian or conservator of a designated beneficiary. Each designated beneficiary may have only one account. The State Treasurer may establish a nonrefundable application fee. A person may make contributions to an ABLE savings account after the account is opened, subject to the limitations imposed by Internal Revenue Code Section 529A, “Qualified ABLE Programs,” or any adopted rules and regulations promulgated by the State Treasurer pursuant to this article. Contributions to an ABLE savings account may be made only in cash. If there is any distribution from an account to an individual or for the benefit of an individual during a calendar year, the distribution must be reported to the Internal Revenue Service and each account owner, the designated beneficiary, or the distributee to the extent required by state or federal law. Funds held in an ABLE savings account and the amount distributed from an ABLE savings account for the purposes of paying qualified disability expenses are exempt from attachment, execution, or garnishment for claims of creditors of the contributor and the designated beneficiary.

Income Tax Provisions of ABLE Program. The Act contains specific income tax provisions relating to contributions, earnings, and withdrawals. These provisions are summarized below.

- a. New Code Section 12-6-1140(12). Code Section 12-6-1140 pertains to deductions from South Carolina taxable income of an individual. Code Section 12-6-1140(12) has been added and provides the following regarding ABLE savings account tax consequences.
 - Contributions to ABLE Savings Account. An individual is allowed a deduction in computing South Carolina taxable income for contributions made to each investment trust account created pursuant to Article 3, Chapter 5, Title 11, or a qualified account under Internal Revenue Code Section 529A located in another state, by a resident of South Carolina or a nonresident required to file a South Carolina income tax return up to

the limit of maximum contributions allowed to such accounts under Internal Revenue Code Section 529A, including funds transferred to an investment trust account from another qualified plan, as allowable under Internal Revenue Code Section 529A.

- Earnings on ABLE Account (On Deposit or Qualified Withdrawal). Any interest, dividends, gains, property, or income accruing on the payments made to an investment trust agreement pursuant to Article 3, Chapter 5, Title 11, or on any account in the South Carolina ABLE Savings Expense Fund or a qualified fund under Internal Revenue Code Section 529A located in another state, must be excluded from the gross income of any such account owner, contributor, or beneficiary for purposes of South Carolina income taxes, to the extent the amounts remain on deposit in the South Carolina ABLE Savings Expense Fund or are withdrawn pursuant to a qualified withdrawal.
 - Nonqualified Withdrawal of Earnings. The earnings portion of any withdrawals from an account that are not qualified withdrawals must be included in the gross income of the resident recipient of the withdrawal for purposes of South Carolina income taxes in the year of the withdrawal.
 - Nonqualified Withdrawal of Principal. Withdrawals of the principal amount of contributions that are not qualified withdrawals must be recaptured into South Carolina income subject to tax to the extent the contributions were previously deducted from South Carolina taxable income.
- b. New Code Section 11-5-440(G). Code Section 11-5-440(G) provides that to the extent earnings in an ABLE savings account and distributions from an ABLE savings account, or a qualified account under Internal Revenue Code Section 529A located in another state, are not subject to federal income tax, they will not be subject to state income tax.

Definitions. Code Section 11-5-410 contains many definitions regarding the ABLE program. Some of the definitions are summarized below.

- “ABLE savings account” or “account” is an individual savings account established in accordance with the provisions of Article 3 and pursuant to Internal Revenue Code Section 529A.
- “Account owner” means the person who enters into an ABLE savings agreement pursuant to Article 3. The account owner also must be the designated beneficiary; however, a trustee, guardian, or conservator may be appointed as an account owner for a designated beneficiary who is a minor or lacks capacity to enter into an agreement. Also, the agent of the designated beneficiary acting under durable power of attorney may open and manage an account on behalf of and in the name of a designated beneficiary who lacks capacity.
- “Designated beneficiary” means an eligible individual whose qualified disability expenses may be paid from the account. The designated beneficiary must be an eligible individual at the time the account is established. The account owner may change the designated beneficiary so long as the new beneficiary is an eligible individual who is a qualified member of the family of the designated beneficiary at the time of the change.

- “Eligible individual,” as defined in Internal Revenue Code Section 529A(e)(1), means: (a) an individual who is entitled to benefits based on blindness or disability pursuant to 42 U.S.C. Section 401, et seq. or 42 U.S.C. Section 1381 and the blindness or disability occurred before the date on which the individual attained age 26; or (b) an individual with respect to which a disability certification, as defined in Internal Revenue Code Section 529A(e)(2), to the satisfaction of the Secretary of the United States Treasury is filed with the Secretary for a taxable year and the blindness or disability occurred before the date on which the individual attained age 26.
- “Qualified disability expense” means any qualified disability expense included in Internal Revenue Code Section 529A.
- “Qualified withdrawal” means a withdrawal from an account to pay the qualified disability expenses of the designated beneficiary of the account.
- “Nonqualified withdrawal” means a withdrawal from an account which is not: (a) a qualified withdrawal or (b) a rollover distribution.

Effective Date: Applies for tax years beginning after 2015.

House Bill 5001, Part IB, Section 109, Proviso 109.15 (Act No. 284)

Educational Credit for Exceptional Needs Children

This temporary proviso creates the Educational Credit for Exceptional Needs Children Fund (“Fund”) which shall be organized as a public charity and consist solely of contributions made to the Fund. Donations sent to the Fund shall be used to provide scholarships to exceptional needs children attending eligible private schools. The Fund, governed by five appointed directors, will award grants for the cost of tuition, up to \$11,000, for qualifying students with exceptional needs to attend an eligible school.

This proviso authorizes tax credits up to \$12 million for funding tuition for exceptional needs children enrolled in eligible schools that have been approved by the Education Oversight Committee. Below is a brief summary of the two tax credits authorized by this proviso.

1. Nonrefundable Credit for Contributions to the Fund. A taxpayer is allowed a nonrefundable credit against income or bank taxes for the amount of cash and the monetary value of any publicly traded securities the taxpayer contributes to the Fund if: (a) the contribution is used to provide grants for tuition to exceptional needs children enrolled in eligible schools and (b) the taxpayer does not designate a specific child or school as the beneficiary of the contribution. The credit is limited to 60% of a taxpayer’s total income tax or bank tax liability for the tax year the contribution is made.

Other conditions of the credit are:

- a. If the taxpayer deducts the amount of the contribution on the taxpayer's federal income tax return and claims this credit, then the taxpayer must add back the amount of the deduction for South Carolina income tax purposes.
 - b. A corporation or entity entitled to this credit may not convey, assign, or transfer this credit to another entity unless all of the assets of the entity are conveyed, assigned, or transferred in the same transaction.
2. Refundable Credit for Tuition Payments Made by Parents and Guardians. A taxpayer is entitled to a refundable tax credit against income taxes for the amount of cash and the monetary value of any publicly traded securities, not exceeding \$11,000 per child, for tuition payments to an eligible school for an exceptional needs child within his custody or care. If the child, however, also receives a grant from the Fund, then the taxpayer may only claim a credit equal to the difference of \$11,000 or the cost of tuition, whichever is lower, and the amount of the grant.

Credit Limits. The total authorized nonrefundable credits available for contributions to the Fund may not exceed \$10 million annually. The total amount of refundable tax credits may not exceed \$2 million annually. If the credits claimed by all taxpayers exceed either limit amount, the Department shall allow credits only up to those amounts on a first come, first served basis.

Definitions. For purposes of this proviso, "exceptional needs child," "qualifying student," and "tuition" are defined as follows:

- An "exceptional needs child" is a child:
 - a. Who has been evaluated under the criteria of SC Regulation 43-243.1, and determined eligible as a child with a disability who needs special education and related services, in accordance with Section 300.8 of the Federal Individuals with Disabilities Education Act (20 U.S.C.A. Section 1400, et seq.); or
 - b. Who has been diagnosed within the last three years by a licensed speech-language pathologist, psychiatrist, or medical, mental health, psychoeducational, or other comparable licensed health care provider as having a neurodevelopmental disorder, a substantial sensory or physical impairment such as deaf, blind, or orthopedic disability, or some other disability or acute or chronic condition that significantly impedes the student's ability to learn and succeed in school without specialized instructional and associated supports and services tailored to the child's unique needs.
- A "qualifying student" is a student who is (a) an "exceptional needs child," (b) a South Carolina resident, and (c) eligible to be enrolled in a South Carolina secondary or elementary public school at the kindergarten or later year level for the applicable school year.

- “Tuition” is the total amount of money charged for the cost of a qualifying student to attend an independent school including, but not limited to, fees for attending the school, textbook fees, and school-related transportation (transportation to and from school only).

Effective Date: This temporary proviso is effective for State fiscal year July 1, 2016 through June 30, 2017. It will expire June 30, 2017, unless reenacted by the General Assembly in the next legislative session.

House Bill 5001, Part IB, Section 1A, Proviso 1A.9 (Act No. 284)

Teaching Supplies and Materials – Reimbursement Amount Not Taxable or Refundable Income Tax Credit

This reenacted and revised temporary proviso continues to allow for a \$275 reimbursement designed to offset expenses incurred for teaching supplies and materials, based on the public decision of the school board. The list of persons eligible to claim the reimbursement was revised so that the reimbursement is now available to all certified and non-certified public school teachers identified in the Professional Certified Staff listing, certified special school classroom teachers, certified media specialists, certified guidance counselors, and career specialists who are employed by a school district, charter school, or lead teachers employed in a publically funded full day 4K classroom approved by the South Carolina First Steps to School Readiness as of November 30 of the current fiscal year. The reimbursement is not considered taxable income by South Carolina.

This proviso continues to provide that any classroom teacher, including a classroom teacher at a South Carolina private school, not eligible for the teacher supply reimbursement described above, may claim a refundable income tax credit on his 2016 tax return. The credit is the lesser of \$275 or the amount spent on teacher supplies and materials. The return claiming the credit must be filed on or before June 30, 2017. The return can be an original or amended return and may be for expenses made after December 31, 2016.

Note: Any person who receives the reimbursement provided by this proviso is not eligible for the income tax credit allowed by this proviso.

Effective Date: This temporary proviso is effective for State fiscal year July 1, 2016 through June 30, 2017. It will expire June 30, 2017, unless reenacted by the General Assembly in the next legislative session.

House Bill 3874, Section 1 (Act No. 134)

Solar Energy Property – New Credit

Code Section 12-6-3770 has been added to provide an income tax credit for a taxpayer who constructs, purchases, or leases solar energy property located on the Environmental Protection

Agency's National Priority List, National Priority List Equivalent Sites, or on a list of related removal actions, as certified by the Department of Health and Environmental Control, located in South Carolina, and places it in service in South Carolina. The credit is equal to 25% of the cost, including the cost of installation, of the property. A credit for each installation of solar energy property placed in service may not exceed \$2.5 million.

The credit is earned in the taxable year in which the solar energy property is placed in service, but must be taken in five equal annual installments beginning with the taxable year in which the solar energy property is placed in service. Unused credit may be carried forward for five taxable years from the year in which the credit was able to be taken.

The credit is allowed on a first come, first served basis, and the total amount of credits available to be taken, pursuant to the five equal annual installments, for all taxpayers in a taxable year, may not exceed \$2.5 million in the aggregate.

A taxpayer who claims any other state credit allowed with respect to solar energy property may not take this credit with respect to the same property. A taxpayer may not take the credit for solar energy property the taxpayer leases from another unless the taxpayer obtains the lessor's written certification that the lessor will not claim a credit pursuant to this section with respect to the property. In addition, the lessor must give a taxpayer who leases solar energy property from him a statement that describes the solar energy property and states the cost of the property upon request.

The credit is not allowed to the extent the cost of the solar energy property is provided by public funds. For purposes of the credit, "public funds" does not include federal grants or tax credits.

If the solar energy property with respect to which the credit was claimed is disposed of, taken out of service, or moved out of South Carolina in a year in which the installment of a credit accrues, then the credit expires and the taxpayer may not take any remaining installments of the credit.

For purposes of this credit, "solar energy property" means any nonresidential solar energy equipment with a nameplate capacity of at least 2,000 kilowatts (2,000 kw AC) that uses solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, daylighting, generating electricity, distillation, desalination, detoxification, or the production of industrial or commercial process heat. The term also includes related devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy.

Repeal of Act. The credit is repealed on December 31, 2017; however, credits earned before the repeal continue to apply until the credits have been fully claimed.

Effective Date: Applies to tax years beginning after 2015.

Alternative Fuel Property – New Credit

Code Section 12-6-3695 has been added to provide an income tax credit for a taxpayer (see definition below) who purchases or constructs, installs, and places in service in South Carolina eligible property that is used for distribution, dispensing, or storing alternative fuel at a new or existing fuel distribution or dispensing facility. The credit is equal to 25% of the cost to the taxpayer of purchasing, constructing, and installing the eligible property. To claim the credit, the taxpayer must place the property or facility in service before January 1, 2026.

The entire credit may not be taken in the tax year in which the property is placed in service, but must be taken in three equal annual installments beginning with the tax year the property is placed in service. The unused portion of an unexpired credit may be carried forward for ten succeeding tax years. If, in one of the years in which the installment of a credit accrues, property directly and exclusively used for distributing, dispensing, or storing alternative fuel is disposed of or taken out of service and is not replaced, the credit expires and the taxpayer may not claim any remaining installment of the credit.

A taxpayer who claims any other credit allowed pursuant to Title 12, Chapter 6, Article 25 with respect to the costs of constructing and installing a facility may not take this credit with respect to the same costs.

The State or any agency or instrumentality, authority, or political subdivision, including municipalities, may transfer the credit. To the extent such entity transfers the credit, it must notify the Department of the transfer in the manner the Department prescribes.

For purposes of this credit, the terms “taxpayer,” “eligible property,” and “alternative fuel” are defined as follows:

- “Taxpayer” means any sole proprietor, partnership, corporation of any classification, limited liability company, or association taxable as a business entity. Also, the word “taxpayer” includes the State or any agency or instrumentality, authority, or political subdivision, including municipalities.
- “Eligible property” includes pumps, compressors, storage tanks, and related equipment that is directly and exclusively used for distribution, dispensing, or storing alternative fuel. The equipment used to store, distribute, or dispense alternative fuel must be labeled for this purpose and clearly identified as associated with alternative fuel.
- “Alternative fuel” means compressed natural gas, liquefied natural gas, or liquefied petroleum gas, dispensed for use in motor vehicles and compressed natural gas, liquefied natural gas, or liquefied petroleum gas, dispensed by a distributor or facility.

Effective Date: Applies to tax years beginning after 2015.

Senate Bill 427, Sections 1 through 4 (Act No. 256)

Job Tax Credit – Eligibility Expanded

Code Section 12-6-3360 provides a job tax credit to qualifying businesses creating and maintaining new jobs in South Carolina. The types of facilities that may qualify for the job tax credit have been expanded to include air transportation and agricultural packaging. In addition, a provision has been added to allow seasonal employees in agricultural packaging and agribusiness operations to be considered a “full time” employee.

Air Transportation. The definition of “qualifying service-related facility” in Code Section 12-6-3360(M)(13)(a) was amended to add establishments engaged in support activities for air transportation (Sector 4881, subsector 488190 of the North American Industry Classification System Manual) as eligible facilities.

Effective Date: Applies to tax years beginning after 2015.

Agricultural Packaging. Code Section 12-6-3360(A) was expanded to allow the credit to taxpayers that operate “agricultural packaging” facilities. Code Section 12-6-3360(M)(16) has been added to define “agricultural packaging” as the technology of enclosing or protecting or preserving agricultural products for distribution, storage, sale and use. Packaging also refers to the process of design, evaluation, and production of packages used for agricultural products. Packaging can be described as a coordinated system of preparing agricultural goods for transport, warehousing, logistics, sale and end use.

Seasonal Workers in Agricultural Packaging and Agribusiness Operations. Code Section 12-6-3360(M)(4), defining full-time job, has been amended to provide that seasonal workers in agricultural packaging and agribusiness operations may be considered a full-time employee. However, a seasonal employee only counts as a fraction of a full-time worker, with the numerator being the number of hours worked a week multiplied by the number of weeks worked, and the denominator being 1,820.

Effective Date: June 8, 2016, except as otherwise provided.

House Bill 5009 (Act No. 179)

Textile Revitalization Credit – Credit Limitation Deleted

Code Section 12-65-30(A)(2) provides for a credit against income taxes, bank franchise taxes, corporate license fees, or insurance premium taxes for a taxpayer who rehabilitates an abandoned textile mill site and meets other statutory requirements in Chapter 65 of Title 12. Code Section

12-65-30(C)(5), which limited the credit to 50% of the taxpayer's income tax liability, bank franchise tax liability, corporate license fee, or insurance premium tax, has been deleted.

Effective Date: May 23, 2016, and first applies to credits claimed for income tax year 2016, regardless of when the credit was earned.

House Bill 3147, Section 2 (Act No. 272)

Textile Revitalization Credit – Allocation and Carryforward Amended

Code Section 12-65-30(C)(3) provides a credit for a taxpayer who rehabilitates an abandoned textile mill site. The entire credit is earned in the taxable year in which the applicable phase or portion of the textile mill is placed in service but must be taken in equal installments over a five year period beginning in the tax year the applicable phase or portion of the textile mill is placed in service.

Code Section 12-65-30(C)(3) now provides that an 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 12-65-30(C)(7) now provides that to the extent the taxpayer is a partnership or a limited liability company taxed as a partnership, the credit, “including the unused credit carryforward,” may be passed through to the partners or members and may be allocated by the taxpayer 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 member or partner at any time during the year in which the credit is allocated. Previously the statute did not contain the language “including the unused credit carryforward” or “or unused credit carryforward.”

Effective Date: Applies to all projects placed in service after December 31, 2014 and for all tax years for which final returns have not been filed as of April 30, 2016.

House Bill 5001, Part IB, Section 117, Proviso 117.142 (Act No. 284)

Retail Facilities Revitalization Act – Repeal of Act Suspended

The South Carolina Retail Facilities Revitalization Act (Title 6, Chapter 34) was enacted in 2006 to create an incentive for the renovation, improvement, and redevelopment of abandoned retail facility sites in South Carolina. A taxpayer who improves, renovates, or redevelops an abandoned retail facility at an eligible site may elect to take either an income tax credit or a property tax credit. Act No. 285 of 2006 contained a repeal provision stating that the Act is repealed on July 1, 2016.

Under this temporary proviso, the repeal of the South Carolina Retail Facilities Revitalization Act as to sites for which written notification of election of mode of credit has been provided to the Department prior to July 1, 2016, and for which a building permit has been issued prior to July 1, 2016, is suspended for fiscal year 2016 - 2017.

Effective Date: This temporary proviso is effective for State fiscal year July 1, 2016 through June 30, 2017. It will expire June 30, 2017, unless reenacted by the General Assembly in the next legislative session.

House Bill 3874, Section 2 (Act No. 134)

Solar Energy or Hydropower System Credit – Expanded to Geothermal Machinery and Equipment

Code Section 12-6-3587 provides an income tax credit for costs incurred by a taxpayer in the purchase and installation of a solar energy system or small hydropower system for heating water, space heating, air cooling, energy-efficient daylighting, heat reclamation, energy-efficient demand response, or the generation of electricity in or on a facility in South Carolina and owned by the taxpayer. This credit has been expanded to apply to the purchase and installation of geothermal machinery and equipment.

For purposes of this credit “geothermal machinery and equipment” means machinery and equipment for use at the taxpayer’s residence that:

1. Is a heat pump that uses the ground or groundwater as a thermal energy source to heat a structure or as a thermal energy sink to cool a structure; or

Uses the internal heat of the earth as a substitute for traditional energy for water heating or active space heating or cooling; and

2. On the date of installation, meets or exceeds applicable federal Energy Star requirements.

Repeal of Act No. 134. The income tax credit for the purchase and installation of geothermal machinery or equipment is repealed on January 1, 2019.

Effective Date: January 1, 2016

House Bill 4765, Section 2 (Act No. 280)

Deer Processing Credit – Credit Increased

Code Section 12-6-3750(A) provides a meat packer, butcher, or processing plant licensed or permitted by South Carolina or the USDA a nonrefundable income tax credit for each deer carcass processed and donated to a charitable organization engaged in distributing food to the

needy pursuant to a valid contract between the meat packer, butcher, or processing plant and a nonprofit organization. The amount of the credit has been increased from \$50 to \$75 for each carcass processed and donated.

Effective Date: Applies to income tax years beginning after 2015.

House Bill 3576 (Act No. 155)

Nonprofit Youth Sports Organizations – New Rules for Withholding on Coaching Services

Title 41 pertains to South Carolina’s labor and employment provisions. Code Section 41-1-120 has been added to provide that a written agreement between a nonprofit youth sports organization and a coach which (1) specifies that the coach is an independent contractor and not an employee of the nonprofit youth sports organization and (2) also satisfies the other requirements of Code Section 41-1-120 constitutes conclusive evidence of an independent contractor relationship.

Accordingly, if the agreement between the nonprofit youth sports organization and the coach satisfies the requirements of Code Section 41-1-120, the nonprofit youth sports organization is not required to withhold federal and state income taxes from money paid to the coach for services he provides pursuant to the contract. Rather, the coach is obligated to pay the federal and state income taxes on any money paid to him pursuant to the contract for coaching services.

The written agreement must contain a conspicuously located disclosure appearing in bold-faced, underlined or large type. The agreement must be acknowledged by the parties as indicated by their signatures, initials, or other means to evince that the parties have read and understand the disclosure. This disclosure clearly must state that the coach is:

1. An independent contractor and not an employee of the nonprofit youth sports organization for income tax withholding purposes;
2. Obligated to pay federal and state income tax on any money paid pursuant to the contract for coaching services, and that as a consequence the nonprofit youth sports organization will not withhold any amounts from the coach for purposes of satisfying the coach’s income tax liability; and
3. Not entitled to workers’ compensation benefits in connection with his contract with the nonprofit youth sports organization.

For purposes of Code Section 41-1-120, “nonprofit youth sports organization” means an organization that is exempt from federal taxation under Internal Revenue Code Section 501(c)(3) and is primarily engaged in conducting organized sports programs for persons under 21 years of age.

Effective Date: April 21, 2016

Redevelopment Fees to Redevelopment Authorities – Extension and Limitation

Code Section 12-10-88 provides for the remission of income tax withholding of employees employed by a federal employer at a closed or realigned military installation to an applicable redevelopment authority. Code Section 12-10-88(C) was amended so that the redevelopment fees may be remitted to the applicable redevelopment authority beginning for a period beginning with the date the applicable redevelopment authority first submits the information described in Code Section 12-10-88(B) to the Department and ending fifteen years later or January 1, 2021, whichever occurs last. The amendment changed the date January 1, 2017 to January 1, 2021. In addition, the amendment limits the redevelopment fee remitted in any fiscal year to the amount remitted in fiscal year 2014-2015.

Effective Date: June 7, 2016

REENACTED TEMPORARY PROVISOS

The following temporary provisos were enacted in a prior legislative session and were reenacted by the General Assembly in 2016. Temporary provisos are effective for the State fiscal year July 1, 2016 through June 30, 2017, and will expire June 30, 2017, unless reenacted by the General Assembly in the next legislative session.

House Bill 5001, Part IB, Section 118, Proviso 118.10 (Act No. 284)

Consumer Protection Services – Individual Income Tax Deduction

This temporary proviso allows an individual an income tax deduction for the cost incurred to purchase “identity theft protection” and “identity theft resolution services” by monthly or annual contract or subscription. The deduction is equal to actual costs for the contract or subscription incurred in the tax year, up to \$300 for an individual taxpayer and up to \$1,000 for a joint return or a return claiming dependents.

The deduction is available to:

1. A taxpayer who filed a return (paper or electronic) with the Department for any tax year from 1998 through 2012; or
2. A person whose personally identifiable information was on the return of another eligible person, including minor dependents.

The deduction is not available to:

1. An individual who is enrolled in the identity theft protection and identity theft resolution services offered free of charge by the State; or
2. An individual who deducted the same actual cost as a business expense.

For purposes of this proviso, “identity theft protection” and “identity theft resolution services” are defined as follows:

“Identity theft protection” means products and services designed to prevent an incident of identity fraud or identity theft or otherwise protect the privacy of a person’s personal identifying information by precluding a third party from gaining unauthorized acquisition of another’s personal identifying information to obtain financial resources or other products, benefits or services.

“Identity theft resolution services” means products and services designed to assist persons whose personal identifying information was obtained by a third party, minimizing the effects of the identity fraud or identity theft incident and restoring the person’s identity to pretheft status.

House Bill 5001, Part IB, Section 1A, Proviso 1A.10 (Act No. 284)

Teacher of the Year Awards – Not Subject to South Carolina Income Tax

This temporary proviso provides for the following teacher of the year awards: (a) a \$1,000 award to each district Teacher of the Year; (b) a \$25,000 award to the State Teacher of the Year; and (c) a \$10,000 award to each of the four Honor Roll Teachers of the Year. These awards are not subject to South Carolina income tax.

PROPERTY TAXES and FEES IN LIEU OF PROPERTY TAXES

House Bill 3313, Section 5 (Act No. 251)

Electronic Property Tax Bill and Receipt – New Procedure

Code Section 12-43-370 has been added to provide that a county may allow a taxpayer to elect to receive his property tax bill and receipt in electronic form. If the taxpayer makes the election, the county shall email the property tax bill and receipt each year unless the taxpayer elects to no longer obtain his bill and receipt electronically. The date the property tax bill or receipt is sent electronically is considered to be the date the bill or receipt is mailed. Each county may determine to which classes of property Code Section 12-43-370 applies. The county shall maintain a record of the taxpayer's election to participate and retain the date of the electronic transmission of the property tax bill or receipt as proof they were sent. Code Section 12-43-370 does not apply to delinquent notices.

Each county electing to utilize the provisions of Code Section 12-43-370 is required to create an application process to allow a taxpayer to submit his email address to the county, advertise the application process for two weeks in a newspaper printed and circulated in the county, and may publish the application process on the county's website or on the property tax bill.

Effective Date: June 7, 2016

Senate Bill 932 (Act No. 206)

Military Member's Residential Property – Change in Application Due Date for 4% Legal Residence Assessment Ratio

Code Section 12-43-220(c)(2)(v)(B) provides that an active duty member of the United States Armed Forces eligible for and receiving the 4% assessment ratio for owner-occupied residential property who receives orders for a permanent change of station or a temporary duty assignment for at least one year, may retain the 4% assessment ratio and applicable exemptions for so long as he remains on active duty, regardless of the owner's subsequent relocation and regardless of any rental income attributable to the property.

Code Section 12-43-220(c)(2)(v)(C) provides that an active duty member of the United States Armed Forces meeting all the other applicable eligibility requirements for the 4% legal residence assessment ratio who receives orders for a permanent change of station or a temporary duty assignment for at least one year, may claim the 4% assessment ratio and applicable exemptions for two residential properties located in South Carolina provided the member attempts to sell the first acquired residence within 30 days of acquiring the second residence. The taxpayer must continue to attempt to sell the first acquired residence in any year in which the 4% assessment ratio is claimed. The 4% assessment ratio may not be claimed on both residences for more than two property tax years.

The taxpayer must apply to the county assessor to utilize these provisions. The due date for the application has changed from May 15 of each year to the first penalty date for the payment of taxes for the tax year in which the taxes are due, *i.e.*, January 15 of the following year.

Note: If a taxpayer qualified for the 4% assessment ratio for tax year 2014 or 2015 pursuant to Code Sections 12-43-220(c)(2)(v)(C) or (B), except that the taxpayer applied after the May 15 deadline, then the taxpayer must be refunded the appropriate amount provided that the taxpayer makes application for either or both years by January 15, 2017.

Effective Date: Applies to property tax years beginning after 2013.

House Bill 3313, Sections 4 and 7 (Act No. 251)

Legal Residence Certification – Liability for Penalties Amended

Code Section 12-43-220(c)(2)(vii)(A) imposes a penalty equal to 100% of the tax paid plus interest on a person who signs the legal residence certification required by Code Section 12-43-220(c)(2)(ii), obtains the 4% assessment ratio, and is thereafter found not eligible, or thereafter loses eligibility and fails to notify the assessor within six months.

Code Section 12-43-220(c)(2)(vii)(B) has been added to provide that if property has undergone an assessable transfer of interest (ATI) as provided in Code Section 12-37-3150, and the transferee is a bona fide purchaser for value without notice, the penalties assessed under Code Section 12-43-220(c)(2)(vii)(A) and the additional property taxes and late payment penalties are solely the personal liability of the transferor and do not constitute a lien on and are not enforceable against the property in the hands of the transferee.

Furthermore, the provisions of Code Section 12-43-220(c)(2)(vii)(B) making the additional taxes and penalties assessed the sole personal liability of the transferor also apply to transfers required as a result of a property settlement pursuant to a divorce or other disputed marital matters where required by written agreement of the parties or a court order, unless the agreement or court order requires otherwise, and additionally apply to trust distributions unless the trust instrument requires otherwise.

Effective Date: Applies prospectively and also retroactively to all property tax years open for the assessment of delinquent property taxes and penalties, including penalties assessed pursuant to Code Section 12-43-220(c)(2)(vii), as of that date. No interest is due on any refunds issued pursuant to the retroactive provisions of this section.

House Bill 3710 (Act No. 237)

Multiple Lot Discount – Additional Year of Eligibility

Code Section 12-43-225, which allows a discounted value for property subdivided into at least ten building lots in a plat recorded on or after January 1, 2001, has been amended. Subsection (A) states that the discount provided in subsection (B) applies for five property tax years or until the lot is sold or a certificate of occupancy is issued for the improvement on the lot, or the improvement is occupied, whichever is first. When the discount allowed by this section no longer applies, the lots must be individually valued.

Subsection (D)(1) has been expanded, and now provides that for lots receiving the multiple lot discount under subsection (B) on December 31, 2011, there is granted an additional year of eligibility for that discount in property tax year 2016, in addition to any remaining period for the discount provided in subsection (B).

Subsection (C) allows the discounted value to apply to a lot sold to the holder of a residential homebuilder's license or a general contractor's license through the first tax year that ends twelve months from the date of the sale under certain circumstances. Item (D)(2) has been expanded and now provides that lots that received the discount under subsection (C) after December 31, 2008 and before January 1, 2012, are allowed an additional year of eligibility for that discount in property tax year 2016.

Effective Date: June 6, 2016

House Bill 3313, Sections 1, 2 and 3 (Act No. 251)

Property Tax Value of “Green Space for Conservation” or “Open Space” for Roll-back Tax Purposes – New

Code Section 12-43-222 has been added to provide that the property tax value (as defined in Code Section 12-37-3135) of that portion of a parcel of real property changed from agricultural use for purposes of residential or commercial development that is designated on the recorded development plat of the parcel as “green space for conservation” or “open space,” must be valued according to its new “green space for conservation” or “open space” use for all purposes in calculating roll-back tax due on the parcel.

Code Section 12-43-222 applies if the “green space for conservation” or “open space” equals 10% or more of the area included within the outermost boundaries of the residential or commercial development. In addition, Code Section 12-43-222 applies only when the local jurisdiction requires the designation of “green space for conservation” or “open space” as a condition to develop residential or commercial property. For purposes of Code Section 12-43-222, the terms “green space for conservation” and “open space” have the meaning provided for those terms by the United States Environment Protection Agency. Code Section 12-43-222(A) and (C).

The county assessor shall value the designated “green space for conservation” or “open space” in the manner that other property dedicated to that use is valued, and that value must be used in the calculation of roll-back tax on the parcel pursuant to Code Section 12-43-220(d)(4). Appeals from the valuation of the “green space for conservation” or “open space” may be taken in the manner provided by law for appeals of value of real property appraised by the county assessors. Code Section 12-43-222(A).

If the platted “green space for conservation” or “open space” is converted to another use within the succeeding five property tax years after the provisions of Code Section 12-43-222 were applied to the property, then the owner of the property at the time of its conversion is liable for the roll-back taxes on the property as if Code Section 12-43-222 was not effective. If the change in use is caused by the transfer of the property, then the transferor is deemed to be the owner of the property at the time of the conversion, and the taxes must be paid at the time of closing. Code Section 12-43-222(B).

Corresponding Amendment to Code Section 12-43-220(d)(4). Code Section 12-43-220(d)(4), which provides for the imposition of roll-back taxes for agricultural use property applied to a use other than agricultural, has been amended to exclude property to which Code Section 12-43-222 applies (*i.e.*, “green space for conservation” and “open space”) from the provisions of Code Section 12-43-220(d)(4).

Effective Date: Applies for eligible real property changed from agricultural use valuation after 2015.

House Bill 3313, Section 6 (Act No. 251)

Applicability of Roll-back Taxes to Agricultural Property

Code Section 12-43-220(d)(3) provides that the owner of agricultural real property seeking the special assessment for agricultural use property must make a written application for the special assessment to the county assessor on or before the first penalty date for taxes due for the first year in which the special assessment is claimed.

Code Section 12-43-220(d)(3)(B) has been added to provide that the roll-back taxes authorized under Code Section 12-43-220(d)(4) for agricultural use property applied to a use other than agricultural must not be applied solely because the owner of the property fails to make written application for an agricultural assessment so long as the actual use of the property remains agricultural. If the property assessment is changed from agricultural or the property is assessed roll-back taxes, the owner may appeal, and if an appeal is made, the property must continue to be assessed as agricultural and the roll-back taxes may not be applied until the final appeal date.

Effective Date: June 7, 2016

Off-Premises Outdoor Advertising Signs and Sites

Code Section 12-43-230(e)(1) has been added to provide that for property tax purposes, an off-premises outdoor advertising sign must be classified as tangible personal property. The sign owner must file a business personal property tax return annually with the Department based upon the original cost of the sign structure less allowable depreciation. Any sign permit required by local, state, or federal law is considered intangible personal property for property tax purposes.

Code Section 12-43-230(e)(2)(a) has been added to provide that:

If an off-premises outdoor advertising sign site is one-quarter of an acre or less, or is otherwise limited to an area large enough only to accommodate the necessary building structure, foundation, and provide for service or maintenance, is leased from an unrelated third party, or the sign is owned by the owner of the site, and the sign owner has filed a business personal property tax return with the Department of Revenue, then the off-premises outdoor advertising sign site real property must be assessed to the site owner at its value before the lease or construction of the sign without regard to the structure, the lease, or lease income, and no separate assessment may be issued for the sign company's lease or ownership interest. The lease or construction of such property does not constitute an assessable transfer of interest pursuant to Article 25, Chapter 37, Title 12, and the real property constituting the sign site must maintain its same property tax classification as commercial, manufacturing, agricultural, or utility property as it had before the lease.

Upon the site owner providing written or electronic notice to the county assessor that his affected property was assessed other than as provided by Code Section 12-43-230(e), county tax officials must adjust values and assessment ratios to reflect the provisions of Code Section 12-43-230(e), but no refund is allowed on account of Code Section 12-43-230(e).

Code Section 12-43-230(e)(2) does not apply to:

1. Real property whose property tax classification is subject to change due to the addition of buildings, structures, or other improvements subsequent to the erection of the sign on the property; and
2. Real property whose property tax classification was changed due to the erection of an on-premises outdoor advertising sign on existing buildings, structures, or other improvements unless the existing buildings, structures, or other improvements qualify within the same property tax classification pursuant to Chapter 43, Title 12.

For the purposes of Code Section 12-43-230(e), the following definitions apply:

- “Intangible personal property” has the same meaning as contained in the South Carolina Constitution, Section 3(j), Article X.
- “Off-premises outdoor advertising sign” means a lawfully erected, permanent sign which relates in its subject matter to products, accommodations, services, or activities sold or offered elsewhere other than upon the premises on which the sign is located.
- “Sign owner” means the owner of an off-premises outdoor advertising sign.

Effective Date: Applies to property tax years after 2014.

Senate Bill 1122, Section 2 (Act No. 269)

Valuation of Alternative Fuel Motor Vehicles of Motor Carriers – Reduction of Gross Capitalized Cost

Code Section 12-37-2820(A) provides that the Department shall annually assess, equalize, and apportion the valuation of all motor vehicles of motor carriers. The valuation must be based on fair market value for the motor vehicles and an assessment ratio of 9.5% as provided by Code Section 12-43-220(g). Fair market value is determined by depreciating the “gross capitalized cost” of the motor vehicle by the applicable annual percentage depreciation allowance provided in Code Section 12-37-2820(A).

Code Section 12-37-2820(B) defines “gross capitalized cost” as the original cost upon acquisition for income tax purposes, not to include taxes, interest, or cab customizing.

Code Section 12-37-2820(B) has been amended to provide that for a motor vehicle which is fueled wholly or partially by an alternative fuel as defined in Code Section 12-28-110(1) and that was acquired after 2015 but before 2026, the gross capitalized cost is reduced by the differential costs of a comparable diesel or gasoline powered vehicle, not to exceed 30% of the total acquisition cost of the motor vehicle. This reduction applies for the first ten property tax years for which tax is due following the acquisition of the vehicle.

Effective Date: Applies to property tax years beginning after 2015.

House Bill 4762 (Act No. 276)

Exception to Limitation on Millage Rate Increase for Purchasing Capital Equipment – Qualifications Expanded

Code Section 6-1-320(B) provides exceptions to the millage rate increase limitation provided for under Code Section 6-1-320(A). Code Section 6-1-320(B)(7) provides that a county may

suspend the millage rate increase limitation to purchase capital equipment and to make expenditures related to the installation, operation, and purchase of the capital equipment if the county has less than 100,000 people and at least 40,000 acres of state forest land. This amendment changes the 40,000 acres of state forest land requirement to 40,000 acres of state or national forest land.

Effective Date: June 15, 2016

House Bill 5001, Part IB, Section 113, Proviso 113.9 (Act No. 284)

Agricultural Use Exemption for Timberland – Impact of Additional County Requirements

Chapter 27 of Title 6 establishes the Local Government Fund (“Fund”) and requires that South Carolina’s annual general appropriations act allocate 4.5% of general fund revenues from the latest completed fiscal year to the Fund. No later than thirty days after the end of each calendar quarter, the State Treasurer must distribute fund revenues to counties and municipalities in accordance with Code Section 6-27-40.

Code Section 12-43-230(a) and Code Section 12-43-232 provide certain requirements for a landowner to receive an agricultural use exemption. Under this proviso, if a county imposes any additional requirements for an agricultural use exemption with respect to timberland, the county’s Fund distributions will be withheld.

Effective Date: This temporary proviso is effective for State fiscal year July 1, 2016 through June 30, 2017. It will expire June 30, 2017, unless reenacted by the General Assembly in the next legislative session.

House Bill 5001, Part IB, Section 117, Proviso 117.142 (Act No. 284)

Retail Facilities Revitalization Act – Repeal of Act Suspended

The South Carolina Retail Facilities Revitalization Act (Title 6, Chapter 34) was enacted in 2006 to create an incentive for the renovation, improvement, and redevelopment of abandoned retail facility sites in South Carolina. A taxpayer who improves, renovates, or redevelops an abandoned retail facility at an eligible site may elect to take either a property tax or an income tax credit. Act No. 285 of 2006 contained a repeal provision stating that the Act is repealed on July 1, 2016.

Under this temporary proviso, the repeal of the South Carolina Retail Facilities Revitalization Act as to sites for which written notification of election of mode of credit has been provided to

the Department prior to July 1, 2016, and for which a building permit has been issued prior to July 1, 2016, is suspended for fiscal year 2016 - 2017.

Effective Date: This temporary proviso is effective for State fiscal year July 1, 2016 through June 30, 2017. It will expire June 30, 2017, unless reenacted by the General Assembly in the next legislative session.

REENACTED TEMPORARY PROVISOS

The following temporary provisos were enacted in prior legislative sessions and were reenacted by the General Assembly in 2016. Temporary provisos are effective for the State fiscal year July 1, 2016 through June 30, 2017, and will expire June 30, 2017, unless reenacted by the General Assembly in the next legislative session.

House Bill 5001, Part IB, Section 1, Proviso 1.51 (Act No. 284)

Index of Taxpaying Ability – Imputed Value for Owner-Occupied Residential Property

The index of taxpaying ability is used to determine state funding for education under the Education Finance Act of 1977, Chapter 20, Title 59. This index, prepared by the Department, shows a local school district's relative fiscal capacity in relation to that of all other districts in the state based on the full market value of all taxable property of the district assessed for ad valorem taxes for the second completed property tax year preceeding the fiscal year in which the index is used.

Code Section 12-37-220(B)(47) exempts 100% of the fair market value of owner-occupied residential property receiving a 4% assessment ratio from all property taxes imposed for school operating purposes. School districts are reimbursed for lost revenue based on a 3-tier formula set forth in Code Section 11-11-156.

This temporary proviso clarifies that, for the current fiscal year, an index value for the exempt owner-occupied residential property must be imputed by adding the second preceding taxable year total school district reimbursements for Tiers 1, 2 and 3(A) of the 3-tier formula and not to include the supplement distribution. The Department shall not include sales ratio data in its calculation of the index of taxpaying ability. The methodology for the calculation of value for classes of property other than exempt owner-occupied residential property is not affected by this temporary proviso.

Personal Property Tax Relief Fund

This temporary proviso provides that if a county imposes a personal property tax exemption sales tax in an effort to reduce ad valorem taxes on personal motor vehicles and the 2% sales tax rate on gross proceeds of sales is insufficient to offset the property tax not collected, sufficient amounts must be credited to the Trust Fund for Tax Relief established under Code Section 11-11-150 to provide reimbursement to offset the shortfall in the manner provided in Code Section 4-10-540(A).

Note: As of the date of this publication, no county has reduced the ad valorem taxes on personal motor vehicles by imposing this sales tax.

SALES AND USE TAXES

Senate Bill 427, Section 5 (Act No. 256)

Agricultural Packaging Machine – New Exemption

Code Section 12-36-2120(17), which exempts machines used in manufacturing, processing, recycling, compounding, mining, or quarrying tangible personal property for sale, has been amended to exempt machines used in “agricultural packaging,” provided the machine is used in packaging agricultural products for sale.

Effective Date: July 1, 2016

House Bill 4328, Section 7 (Act No. 160)

Natural Gas and Liquefied Petroleum Gas For Use as Motor Fuel – New Exemptions

Code Section 12-36-2120(15), providing exemptions for certain types of fuel subject to the motor fuel user fee, has been amended to add two new sales and use tax exemptions for:

1. Natural gas sold to a person with a miscellaneous motor fuel user fee license pursuant to Code Section 12-28-1139 who will compress it to produce compressed natural gas, or cool it to produce liquefied natural gas, for use as a motor fuel and remit the motor fuel user fees as required by law; and
2. Liquefied petroleum gas sold to a person with a miscellaneous motor fuel user fee license pursuant to Code Section 12-28-1139 who will use the liquefied petroleum gas as a motor fuel and remit the motor fuel user fees as required by law.

Effective Date: April 21, 2016

House Bill 3891, Section 1 (Act No. 224)

Vehicle License Fees – Subject to State and Local Sales and Use Tax

The vehicle license fee authorized by Code Section 56-31-50 and separately stated and charged on a vehicle rental contract is subject to state and local sales and use tax in the manner and to the same extent as the fee charged for the lease or rental of the rental vehicle.

See the “Miscellaneous Section” for a complete summary regarding vehicle license fees.

Effective Date: January 1, 2017

House Bill 3891, Section 2 (Act No. 224)

Heavy Equipment Rental Fee – Not Subject to State and Local Use Tax

The new heavy equipment rental fee imposed under Code Section 56-31-60 is not subject to state or local sales tax pursuant to Code Section 56-31-60(D).

See the “Miscellaneous Section” for a complete summary regarding vehicle license fees.

Effective Date: January 1, 2017

REENACTED TEMPORARY PROVISOS

The following temporary provisos were enacted in prior legislative sessions and were reenacted by the General Assembly in 2016. Temporary provisos are effective for the State fiscal year July 1, 2016 through June 30, 2017, and will expire June 30, 2017, unless reenacted by the General Assembly in the next legislative session.

House Bill 5001, Part IB, Section 117, Proviso 117.61 (Act No. 284)

Viscosupplementation Therapies – Sales and Use Tax Suspended

For this State fiscal year, sales and use taxes on viscosupplementation therapies are suspended. No refund or forgiveness of tax may be claimed as a result of this provision.

House Bill 5001, Part IB, Section 117, Proviso 117.57 (Act No. 284)

Respiratory Syncytial Virus Medicines Exemption – Effective Date

Act No. 69, Section 3.PP, of 2003 amended Code Section 12-36-2120(28)(a) to add a sales and use tax exemption for prescription medicines used to prevent respiratory syncytial virus; it was effective for sales on or after June 18, 2003. This temporary proviso changes the effective date of this exemption to January 1, 1999 and provides that no refund of sales and use taxes may be claimed as a result of this change in the effective date.

House Bill 5001, Part IB, Section 117, Proviso 117.37 (Act No. 284)

Private Schools – Use Tax Exemption

This temporary proviso exempts purchases of tangible personal property for use in private primary and secondary schools, including kindergarten and early childhood education programs, from the use tax if the school is exempt from income taxes under Internal Revenue Code Section 501(c)(3). This exemption does not apply to purchases subject to sales tax. See SC Regulation 117-334 for information as to which tax, the sales tax or the use tax, applies when goods are shipped into South Carolina. This use tax exemption is also applicable to purchases occurring after 1995; however, no refund is due any taxpayer on purchases exempted by this provision.

REMINDER

The following provisions were enacted in 2015 but are effective in 2016. They are summarized below for informational purposes.

House Bill 3568, Section 1 (Act No. 69)

Construction Materials Used by Nonprofit Corporations – New Exemption

Code Section 12-36-2120(81) has been added to provide an exemption for construction materials used by an entity organized under Internal Revenue Code Section 501(c)(3) as a nonprofit corporation to build, rehabilitate, or repair a home for the benefit of an individual or family in need. An individual or family in need is an individual or family whose income is less than or equal to 80% of the county median income.

Effective Date: January 1, 2016

House Bill 3568, Section 3 (Act No. 69)

Children’s Clothing Sold to a Private Charitable Organization – New Exemption

Code Section 12-36-2120(82) has been added to provide an exemption for children's clothing sold to a private charitable organization exempt from federal and state income tax (except private schools) for the sole purpose of distribution by that organization to needy children. Needy children are children eligible for free meals under the National School Lunch Program of the United States Department of Agriculture. “Clothing” means items that are exempt as clothing or footwear, under the annual sales tax holiday exemption in Code Section 12-36-2120(57)(a)(i) and (iii).

Effective Date: January 1, 2016

House Bill 3568, Section 2 (Act No. 69)

Parts or Supplies Used to Repair Aircraft – Exemption Amended

Code Section 12-36-2120(52) has been expanded to provide that parts and supplies used by persons engaged in the business of repairing or reconditioning aircraft are exempt from sales and use tax. The requirement that the aircraft be owned by or leased to the federal government or a commercial carrier has been deleted. The exemption continues to provide that it does not apply to tools or other equipment that are not attached to or do not become a part of the aircraft.

Effective Date: January 1, 2016

MISCELLANEOUS

(Summarized by Subject Matter)

ADMINISTRATIVE and PROCEDURAL MATTERS

House Bill 4328, Sections 4.A. and 4.B. (Act No. 160)

Corporate and Partnership Returns – Due Date Change

Public Law 114-41, the “Surface Transportation and Veterans Healthcare Choice Improvement Act of 2015,” changed the federal due dates for C corporations and partnerships for tax years beginning after December 31, 2015. South Carolina has now revised the tax return filing and withholding payment due dates for certain returns. The new filing and payment requirements for South Carolina are briefly summarized below.

General Rule for Filing. Code Section 12-6-4970(A) continues to contain the general rule providing that returns must be filed on or before the 15th day of the 4th month following the taxable year, unless otherwise provided.

S corporations and Partnerships. Code Section 12-6-4970(B) has been amended to specifically provide that returns of S corporations and partnerships must be filed on or before the 15th day of the 3rd month following the taxable year. Previously, this subsection referred to returns of corporations, which included both C and S corporations.

C corporations. With this amendment, returns of C corporations are now due on or before the 15th day of the 4th month following the taxable year, as provided under Code Section 12-6-4970(A). Code Section 12-6-4970(B), however, continues to provide that returns of foreign corporations that do not maintain an office or place of business in the United States must be filed on or before the 15th day of the 6th month following the taxable year.

Effective Date: Applies to tax years beginning after 2015.

House Bill 4328, Section 4.C. (Act No. 160)

Savings and Loan Association Return – Due Date Change

Code Section 12-13-80, providing for the due date of a savings and loan income tax return, has been amended to change the due date of the return from the 15th day of the 3rd month following the close of the accounting period of the association to the 15th day of the 4th month following the close of the accounting period for the association.

Effective Date: Applies to tax years beginning after 2015.

House Bill 4328, Sections 1 and 2 (Act No. 160)

Fourth Quarter Withholding Return and Annual Reconciliation – Due Date Change

Code Section 12-8-1530(A) and Code Section 12-8-1550(A) have been amended to change the due date that a withholding agent must file with the Department the fourth quarter withholding return and the annual recapitulation and reconciliation of taxes withheld and paid. The due date has been changed from the last day of February following the calendar year of the withholding to the last day of January following the calendar year of withholding.

Code Section 12-8-1550(B) continues to provide that a withholding agent may request in writing an extension of time for filing the information not to exceed 30 days.

Effective Date: April 21, 2016

House Bill 4328, Section 2 (Act No. 160)

Forms W-2 and 1099 Submission by Withholding Agent – Due Date Change

On December 18, 2015, Congress enacted the “Protecting Americans from Tax Hikes (PATH) Act” of 2015, Public Law No. 114-113. The PATH Act changed the due date for filing Forms W-2 and 1099 with the Internal Revenue Service to January 31st of the year following the calendar year of the wages or payments.

Code Section 12-8-1550(A) has been amended to change the filing date that a withholding agent must file with the Department a completed federal wage and tax statement or federal 1099 required by Code Section 12-8-1540. The due date has been changed from the last day of February following the calendar year of the withholding to the last day of January following the calendar year of the withholding.

Code Section 12-8-1550(B) continues to provide that a withholding agent may request in writing an extension of time for filing the information not to exceed 30 days.

Code Section 12-8-1540(C) continues to provide exceptions to the withholding requirements.

Effective Date: April 21, 2016

House Bill 4328, Section 4.B. (Act No. 160)

Withholding on Nonresident Partners – Due Date Change

Code Section 12-8-590 requires S corporations and partnerships to withhold income taxes on a nonresident shareholder’s or partner’s share of South Carolina taxable income, whether distributed or undistributed, and pay the withheld amount to the Department. The withholding is remitted with the S corporation or partnership tax return.

Code Section 12-8-590(C) has been amended, as a result of the change in the due date of the partnership return (see above explanation under “Corporate and Partnership Returns – Due Date Change”), to change the date a partnership must remit the withholding on a nonresident partner from on or before the 15th day of the 4th month following the close of its tax year to the 15th day of the 3rd month following the close of its tax year. The income tax withheld on a nonresident shareholder of an S corporation continues to be due on or before the 15th day of the 3rd month following the close of an S corporation’s tax year.

Effective Date: Applies to tax years beginning after 2015.

House Bill 4328, Section 4.D. (Act No. 160)

Corporate Annual Report and Corporate License Fee – Due Date Change

Code Section 12-20-20(B), providing for the filing of the annual report, has been amended to provide that corporations (C and S corporations) shall file an annual report on or before the 15th day of the 4th month following the close of the tax year, unless otherwise provided. Prior to this amendment, the annual report was due to be filed on or before the 15th day of the 3rd month following the close of the tax year, unless otherwise provided.

Code Section 12-20-50, providing for the due date of the corporate license fee, continues to provide that the license fee must be paid on or before the original due date for filing the annual report.

Effective Date: Applies to tax years beginning after 2015.

MISCELLANEOUS TAX LEGISLATION

House Bill 4151 (Act No. 149)

Cigarette Stamp Tax Program – New Process

Beginning January 1, 2019, Code Section 12-21-735 requires each cigarette distributor who first receives untaxed cigarettes for sale or distribution in South Carolina to pay the taxes imposed on the cigarettes by Code Section 12-21-620 by affixing tax stamps to each individual package of cigarettes before the packages are sold, distributed, or shipped to another person.

Distributors may only affix tax stamps to packages of cigarettes obtained directly from a manufacturer or importer with a valid permit issued pursuant to 26 U.S.C. Section 5713. If cigarettes are manufactured in South Carolina and sold directly to consumers in South Carolina by a manufacturer or importer, the cigarette packages must be stamped by a licensed distributor before being sold.

Receipt or Possession of Unstamped Cigarettes. Only manufacturers or importers with a valid permit issued pursuant to 26 U.S.C. Section 5713 and licensed distributors may receive or possess unstamped packages of cigarettes.

Shipping Unstamped Cigarettes. Only manufacturers or importers with a valid permit issued pursuant to 26 U.S.C. Section 5713 may ship or otherwise cause to be delivered unstamped packages of cigarettes in, into, or from South Carolina, except that licensed distributors may transfer, transport, or cause to be transported unstamped cigarettes from a facility owned by the distributor to another facility owned by the distributor, wherever located.

Sales of Unstamped Cigarettes by South Carolina Licensed Distributors. Qualified South Carolina licensed distributors may sell cigarettes without tax stamps affixed to the package where:

1. The cigarettes are set forth in separate stock for sale to a licensed cigarette distributor in another state;
2. If the cigarettes are not in the possession of a qualified South Carolina licensed distributor, the cigarettes must be in the possession of a person who is a licensed distributor of cigarettes in another state, and the cigarettes must be purchased for the purpose of resale in the other state;
3. The cigarettes, at the time of sale by the South Carolina licensed distributor, are properly stamped with revenue stamps authorized and issued by another state for use on the cigarettes, if the other state requires revenue stamps, or any applicable tax imposed on the cigarettes by the other state has been paid if the law of the other state permits the sale of the cigarettes to consumers in a package not bearing a stamp; and
4. At all times there is an invoice accompanying the cigarettes which indicates the purchase date, the name, address, and telephone number of the seller, and the name, address, and telephone number of the purchaser. A distributor shall have on file a record of each sale, the original purchase order, a copy of the invoice, and a signed receipt from the purchaser showing that the purchase was made exclusively for resale in another state.

Stamp Requirements. Cigarette stamps must meet the following requirements:

1. The Department will designate the type of stamps to be applied by rules and regulations.
2. The cigarette tax stamps and tax exempt stamps must be of a type that when affixed on each individual package the stamps cannot be removed without being mutilated or destroyed.
3. All stamps must contain a serial number or other mark which identifies the distributor that affixed the stamp to the particular package of cigarettes, and all stamps must note whether taxes were paid or whether the package of cigarettes was exempt from the taxes.

Sale and Affixture of Cigarette Stamps. The following provisions concerning cigarette stamps were added:

1. Cigarette tax stamps must be sold only in amounts of 30,000 or multiples of 30,000, and the stamps may only be affixed to packages of cigarettes listed on the South Carolina Tobacco Directory published by the Office of the Attorney General. See <http://www.scag.gov/civil/tobacco>.
2. Where the sale of cigarettes falls under the tax exemption in Code Section 12-21-100 (for sales made to the United States for military use or resale to military personnel and sales to ships engaged in foreign or coastwise shipping), distributors must affix stamps indicating packages of cigarettes are exempt from tax.
3. The Department will furnish stamps for taxable and tax exempt cigarette packages and will provide a method of purchasing stamps by rules and regulations.
4. The Department may by rules and regulations authorize the sale of stamps to distributors on 30-day credit periods. Distributors authorized to pay by credit would be required to execute a bond equal to 110% of the distributor's estimated tax liability for 30 days, but not less than \$2,000, on the condition that the distributor pays all cigarette stamp taxes due to the State. Payment for each month's liability is due on or before the 20th day of each month, including Sundays and holidays. The Department has the discretion to revoke a distributor's privilege to purchase stamps in the event of default in the bonding and payment provisions.
5. The Department may appoint cigarette manufacturers and distributors, located inside or outside of South Carolina, as agents to buy or affix cigarette tax stamps. An agent may appoint a person in his employ to affix the stamps to any cigarette under the agent's control. When the Department sells and delivers cigarette tax stamps to an agent, the agent is entitled to a 4.25% discount on the face value of the stamps as compensation for his services and expenses as an agent in affixing and accounting for the cigarette taxes.
6. The Department, by rules and regulations, may authorize a process allowing for a credit for damaged stamps, for product returned as unsellable, and for product unrecoverable as a result of bad debt.

Other Provisions. Other provisions of the cigarette tax law include:

1. Tax Meter Machines. The Department may, by rules and regulations, authorize licensed distributors to use other devices to imprint distinctive markings or to make tax stamps indicating the payment of the tax on each individual package. The machines must accurately record or meter the number of impressions or tax stamps made. The tax meter machines or other devices must be kept available for inspection by the Department at all reasonable times.

2. Tax Credit for Stamping Machine and Equipment. A distributor is allowed a tax credit for the purchase of one stamping machine and equipment within one year of implementation by the Department. The amount of the credit would equal the direct costs (excluding shipping, installation, and ongoing maintenance costs) actually incurred by a distributor to acquire a stamping machine and equipment, as determined by the Department, up to a maximum credit of \$175,000. The total credit is divided by 18, and the distributor is able to claim the credit in 18 equal monthly installments beginning the first calendar month following the purchase of the machine and equipment and continuing for the immediately succeeding 17 months. Any tax credit must only be applied to the tax remitted pursuant to Chapter 21 of Title 12.

Effective Date: January 1, 2019

House Bill 4328, Sections 5 and 6 (Act No. 160)

Motor Fuel User Fee – Liquefied Natural Gas, Compressed Natural Gas and Liquefied Petroleum Gas

Chapter 28 of Title 12, which imposes the motor fuel user fee, has been amended to address the calculation of the user fee on liquefied natural gas, compressed natural gas and liquefied petroleum gas.

Code Section 12-28-110, providing definitions of terms applicable to the motor fuel user fee, has been amended to provide the following definitions of “diesel gallon equivalent” and “gasoline gallon equivalent”:

1. “Diesel gallon equivalent” is defined as the amount of liquefied natural gas containing the same energy content as one gallon of diesel. When calculating the motor fuel user fee on liquefied natural gas used or consumed in South Carolina in producing or generating power for propelling a motor vehicle, 6.06 pounds of liquefied natural gas equals one gallon of motor fuel.
2. “Gasoline gallon equivalent” is defined as the amount of compressed natural gas or liquefied petroleum gas containing the same energy content as one gallon of gasoline. When calculating the motor fuel user fee on compressed natural gas or liquefied petroleum gas used or consumed in South Carolina in producing or generating power for propelling a motor vehicle, 126.67 cubic feet of compressed natural gas, or 5.66 pounds if the compressed natural gas is dispensed via a mass flow meter, equals 1 gallon of motor fuel, and 1 gallon of liquefied petroleum gas equals 0.73 gallon of motor fuel.

Code Section 12-28-120 has been added to provide that for the purposes of Chapter 28 of Title 12, any reference to the term gallon with respect to liquefied natural gas means diesel gallon equivalent, and any reference to the term gallon with respect to compressed natural gas or liquefied petroleum gas means gasoline gallon equivalent. For any gaseous product for which a conversion factor is not provided, the Department must establish a temporary conversion factor

to determine the gallon equivalent, based on the best information available. Subsequently, the Department must submit a recommended legislative change to the General Assembly for this conversion factor.

Effective Date: April 21, 2016

Senate Bill 1122, Section 1 (Act No. 269)

Motor Fuel User Fee – Alternative Fuel

Code Section 12-28-110(1), defining terms relating to the motor fuel user fee, has been amended to include liquefied natural gas and all forms of fuel commonly or commercially known or sold as liquefied natural gas within the definition of alternative fuel. Also, the definitions of motor fuel in Code Section 12-28-110(39) and motor fuel subject to the user fee in Code Section 12-28-110(55) have been amended to include alternative fuel.

Effective Date: June 6, 2016

House Bill 4328, Section 8 (Act No. 160)

License Requirement for Importing Certain Motor Fuel – Amended

Code Section 12-28-1125(A) now provides that each person who wishes to cause motor fuel subject to the user fee to be delivered into South Carolina on his behalf, for his own account, or for resale to a purchaser in South Carolina, from another state “by any means” into storage facilities other than a qualified terminal, shall apply and obtain an occasional importer's license or a bonded importer's license, at the discretion of the applicant. This amendment replaced the language “in a fuel transport truck or in a pipeline or barge shipment” with “by any means.”

Effective Date: April 21, 2016

OTHER ITEMS

House Bill 5078, Section 1 (Act No. 250)

Local Sales and Use Taxes – General Election Defined

Chapter 10 of Title 4 authorizes several types of local sales and use taxes for the purpose of reducing the property tax burden on persons within the county or funding the construction of various capital projects. For several of these taxes, a public referendum to approve the tax must be held at the

time of a general election. Code Section 4-10-10(6) has been added to define “general election” as the Tuesday following the first Monday in November in any year.

Effective Date: June 6, 2016

House Bill 5078, Sections 2, 3 and 4 (Act No. 250)

Capital Projects Sales and Use Tax – Amended

Article 3, Chapter 10 of Title 4 authorizes a county to impose a capital projects sales and use tax for one or more capital projects within the county. Code Sections 4-10-330 and 4-10-340 have been amended to change the termination date of a reimposed capital projects sales and use tax. Prior to the amendments, both code sections provided that a reimposed capital projects tax took effect immediately upon the termination of the previous tax and would expire on April 30 in an odd-numbered year, not to exceed seven years from the date of re-imposition. With the amendments, a re-imposed tax ends on April 30, for a period not to exceed seven years from the date of re-imposition.

Code Section 4-10-330(C)(2) has been added, providing that, if the referendum on the question of imposing sales and use tax is conducted in an odd-numbered year, and it is the only matter being considered at the general election, then six weeks before the referendum, the county election commission must publish in a newspaper of general circulation the question that is to appear on the ballot, with the list of projects and the cost of the projects. Subject to Code Section 4-10-330(C)(2), Code Section 4-10-330(C)(1) continues to provide that two weeks before the referendum the county election commission must publish in a newspaper of general circulation the question that is to appear on the ballot, with the list of projects and the cost of the projects.

Effective Date: June 6, 2016

Senate Bill 1233 (Act No. 182)

Education Capital Improvements Sales and Use Tax – Eligibility Requirements Amended

An education capital improvements sales and use tax may be imposed in a county upon approval by referendum for specific education capital improvements for the school district. Code Section 4-10-470 provides eligible criteria a county must meet to impose this tax. Code Section 4-10-470(F)(1) has been amended.

Code Section 4-10-470(F)(1) now provides that the education capital improvements sales and use tax also may be imposed in a county which does not meet the collection requirements of subsection (A) so long as immediately prior to the imposition date, if approved, the county is imposing the local option sales tax imposed pursuant to Article 1, and the county had not imposed that tax for 20 years or more “as of the date the imposition of the education capital improvements sales tax authorized in this article was first proposed in that county in a 2014

referendum,” in which any portion of a calendar year counts as a year, and no other local sales and use tax that is administered by the Department is imposed in the county.

This amendment added the language “as of the date the imposition of the education capital improvements sales tax authorized in this article was first proposed in that county in a 2014 referendum” to Code Section 4-10-470(F)(1).

Effective Date: May 25, 2016

House Bill 5011 (Act No. 249)

Local Tourism Development Sales and Use Fee – Reimposed

Article 9, Chapter 10 of Title 4 authorizes a municipality located in a county with at least \$14 million in state accommodations tax revenues in a fiscal year to impose a tourism development sales and use fee for tourism advertisement and promotion directed at non-South Carolina residents. A portion of the fee in the third and subsequent years of its imposition also may be used for certain property tax roll-backs. The fee may be authorized by either an ordinance, adopted by a supermajority of the municipal council, comprising two-thirds of its members, or a majority vote by voters in the municipality in a public referendum.

Code Section 4-10-980 has been added, providing that the fee may be renewed and imposed within a municipality in the same manner as authorized for the initial imposition of the fee. If the method for renewing the fee is a public referendum, the public referendum must not be held earlier than within the calendar year which is two years before the calendar year in which the fee then in effect is scheduled to terminate. Any reimposition of the fee is effective immediately upon the termination of the previous fee. The revenues from a reimposed fee must be expended in a manner consistent with Article 9, Chapter 10 of Title 4, and Code Section 4-10-970(A)(2), restricting use of revenues, applies immediately upon the reimposition.

Effective Date: June 1, 2016

House Bill 3891, Sections 2 and 3 (Act No. 224)

Heavy Equipment Rental Surcharge – Repealed Heavy Equipment Rental Fees – New

Repeal of Code Section 12-37-717. Code Section 12-37-717, which imposed a 3% surcharge on heavy equipment rental contracts, has been repealed.

New Heavy Equipment Rental Fee. Code Section 56-31-60 has been added to require a qualified renter to collect and remit a heavy equipment rental fee on all qualified rentals of any item of qualified heavy equipment property to customers. The fee is 2.5% of the rental price and applies to all qualified rentals made from a rental location in South Carolina where the customer picks up the equipment or where the qualified heavy equipment property is delivered in South

Carolina. The fee does not apply to rentals made from a rental location in South Carolina and delivered outside South Carolina.

Fee Collection and Remittance. The rental invoice must include the heavy equipment rental fee. The person or company collecting such fees must remit the fees to the Department on a quarterly basis. The heavy equipment rental fee is not subject to South Carolina or local sales tax.

Fee Exemption. Qualified heavy equipment property directly rented to the federal government, the State, or any political subdivision of the State is exempt from the fee.

Property Tax Exemption. Qualified heavy equipment property subject to the fee is exempt from personal property tax.

Definitions. Code Section 56-31-60(A) provides a list of definitions that are used in the statute. Some of the relevant terms are summarized below.

- “Qualified heavy equipment property” is defined as any construction, earthmoving, or industrial equipment that is mobile and rented by a qualified renter, including attachments for the equipment or other ancillary equipment or tools. Qualified heavy equipment property is mobile if it is not permanently affixed to real property and is moved amongst worksites.
- “Qualified rental” is defined as “qualified heavy equipment property” that is rented for 365 days or less, or pursuant to an open-ended contract, or through a contract without a specified time period.
- “Qualified renter” is defined as a renter (i) whose primary business is renting out qualified heavy equipment property. Primary business means over 51% of the annual revenue of the business in any given year; and (ii) that is engaged in a line of business described in Code 532412 or 532310 of the North American Industry Classification System published by the U.S. Census Bureau, 2012 edition.
- “Rental price” is defined as the amount of the charge for renting the qualified heavy equipment, excluding any separately stated charges that are not rental charges, including, but not limited to, separately stated charges for delivery and pickup fees, damage waivers, environmental fees, sales tax, or any other ancillary charge.

Effective Date: January 1, 2017

Telecommunication Providers – Dual Party Relay Charges and Universal Service Fund

I. Dual Party Relay Charge.

Code Section 58-9-2530, which authorizes the Public Service Commission (PSC) to require local exchange carriers to collect and remit a dual party relay charge, has been amended. The PSC may require each local exchange provider, Commercial Mobile Radio Service (CMRS) provider, Voice over Internet Protocol (VoIP) service provider and prepaid wireless seller to impose a dual party relay charge not to exceed 10 cents (reduced from 25 cents). The charge will fund a dual party relay system that allows deaf, hearing or speech impaired users to communicate with an intermediary who orally relays the message or request to a third party.

Code Section 58-9-2535 has been added to prescribe the manner in which each of the following providers and sellers must collect and remit the dual party relay charge:

Local Exchange Providers. A local exchange provider must collect the charge on the subscriber's bill for any individual local exchange access facility that is capable of simultaneously carrying multiple voice and data transmissions. The charge may be separately stated on the subscriber's bill. A local exchange provider must file a return with, and remit the charges to, the Office of Regulatory Staff within 45 days after the end of the month during which the charges were collected. The local exchange carrier may retain 2% of the gross charges as an administrative fee.

CMRS Providers. A CMRS provider must collect the charge on the subscriber's bill for each CMRS connection that has a mobile identification number with a South Carolina area code, with certain exceptions. The charge may be separately stated on the subscriber's bill. A CMRS provider must file a return with, and remit the charges to, the Department on or before the 20th day of the second month following the month in which the charges were collected. The CMRS provider may retain 2% of the gross charges as an administration fee.

VoIP Service Providers. A VoIP service provider must collect the charge on the subscriber's bill for each VoIP service line. The charge may be separately stated on the subscriber's bill. The VoIP service provider must file a return with, and remit the charges to, the Department on or before the 20th day of the second month following the month in which the charges were collected. The VoIP service provider may retain 2% of the gross charges as an administration fee.

Prepaid Wireless Sellers. A prepaid wireless seller must collect the charge for each prepaid wireless retail transaction occurring in South Carolina. The charge either must be separately stated on an invoice, receipt, or other similar document provided to the consumer; or otherwise disclosed to the consumer. The prepaid wireless seller must remit the charges to the Department on or before the 20th day of the second month following the month in which the charges were collected. The prepaid wireless seller may retain 3% of the gross charges as an administration fee.

Other provisions include:

1. No other tax, fee, surcharge, or other charge for dual party relay system funding may be imposed by any State entity.
2. For dual party relay charges that are required to be remitted to the Department, the charges must be administered and collected by the Department in the same manner as taxes as defined in Code Section 12-60-30(27) are administered and collected by the Department under the provisions of Title 12.
3. Rules are provided for sourcing transactions, limiting the number of charges in certain instances, and addressing situations where services overlap.

II. Universal Service Fund.

Code Section 58-9-280(E), which requires telecommunications companies to collect charges from their customers and to contribute them to a Universal Service Fund (USF) in order to provide basic local exchange telephone service at affordable rates and to assist with alignment of prices and recovery of costs to carriers of last resort, has been amended. The Department must issue an assessment and collect fund contributions from any telecommunications company that does not have a certificate issued by the Public Service Commission (PSC). The Office of Regulatory Staff (ORS) must certify to the Department the USF factor and the amounts to be assessed. Telecommunications companies that have certificates issued by the PSC must continue to remit their contributions to ORS.

Prepaid wireless sellers must collect USF contributions from consumers for prepaid wireless communications services. This fixed per-transaction fee is established annually by ORS. Prepaid wireless sellers must collect the USF contribution on each retail transaction occurring in South Carolina. The USF contribution either must be stated separately on an invoice, receipt, or other similar document provided to the consumer; or must otherwise be disclosed to the consumer. However, at the election of the prepaid wireless seller, the USF contribution may be combined into a single charge with the dual party relay charge and the 911 charge. Prepaid wireless sellers must remit the USF contribution to the Department on or before the 20th day of the second month following the month in which the charge was collected. Prepaid wireless sellers may retain 3% of the gross USF contribution as an administrative fee.

Effective Date: May 25, 2016. Full implementation of the new dual party relay charge and Universal Service Fund provisions must not begin earlier than January 1, 2017. The Department and the Office of Regulatory Staff must provide at least 30 days' public notice of the full implementation date. No person or entity is required to bill, collect, remit, or pay any charges pursuant to Sections 3, 5.A., or 8 of this Act (see Code Sections 58-9-2535, 58-9-280(E), and 58-9-2530, respectively) prior to the full implementation date.

Vehicle License Fee

Code Section 56-31-50, which required rental companies who rented vehicles for 31 days or less to collect a 5% surcharge on rental contracts for short-term rentals of vehicles, has been amended to remove the imposition of the 5% surcharge. Under this amendment, a “motor vehicle rental company” may now charge separately stated fees including, but not limited to, vehicle license fees, airport access fees, airport concession fees, and all applicable taxes to the renter.

Definitions. Code Section 56-31-50 defines the terms “motor vehicle rental company” and “vehicle license fee” as follows:

- “Motor vehicle rental company” is defined as an individual or business entity whose business activity is renting motor vehicles to consumers under rental agreements for periods of ninety days or less.
- “Vehicle license fee” is defined as a charge that may be separately stated and charged on the rental contract in a vehicle rental transaction originating in this State to recover the motor vehicle rental company's costs incurred for:
 - a. licensing, titling, registering, plating, and inspecting of its rental vehicles; and
 - b. taxes paid in connection with registering its rental vehicles.

The terms “renter,” “rental agreement,” and “rental vehicle” are defined in Code Section 56-31-20.

The amount of the vehicle license fee must be disclosed at the time the vehicle is reserved and as part of any estimated pricing provided to the renter. The vehicle license fee must be shown as a separately itemized charge on the rental agreement.

The amount charged for the vehicle license fee must represent the good faith estimate by the motor vehicle rental company of its daily charge calculated to recover its actual total annual recoverable costs, pursuant to Code Section 56-31-50(A)(2), on its rental motor vehicle fleet for the corresponding calendar year. The vehicle license fee must be described in the terms and conditions of the rental agreement as the estimated average per day portion of the motor vehicle company's costs incurred for licensing, titling, registering, plating, and inspecting its rental vehicles, and taxes paid in connection with registering its rental vehicles.

If the total amount of the vehicle license fees collected by a motor vehicle rental company pursuant to Code Section 56-31-50 in any calendar year exceeds the actual costs of the car rental company, as allowed under Code Section 56-31-50(A)(2), for that calendar year, the car rental company must retain the excess amount and adjust the estimated average per vehicle charge for the following calendar year by a corresponding amount. A motor vehicle rental company may make adjustments during the calendar year to the vehicle license fee charged per vehicle to

reflect interim developments affecting the motor vehicle rental company's prior estimated per vehicle fee for that calendar year.

The vehicle license fee authorized by this section is subject to state and local sales and use tax in the manner and to the same extent as the fee charged for the lease or rental of the rental vehicle.

Effective Date: January 1, 2017

Senate Bill 1111 (Act No. 214)

License Plate Fee Amended

Code Section 56-3-2332 imposes an annual registration fee for vehicles a manufacturer uses either in an employee benefit program or for testing, distribution, evaluation, and promotion. This amendment changes both the method used to calculate the fee and the method used to credit the fees between the State and county governments. The registration fee in Code Section 56-3-2332(B), as amended, now provides that the annual registration fee provided for by this section is determined by computing the average price of the vehicle manufacturer's fleet multiplied by the property tax rates, multiplied by the average millage for all purposes statewide for the preceding calendar year.

Before December 31 of each odd-numbered year, the manufacturer shall review the average price of its fleet and submit the cost to the Department. The Department must determine the annual registration fee pursuant to Code Section 56-3-2332(B) and notify the Department of Motor Vehicles of the adjusted fee amount, which is effective for the next two years. Previously, the fee was a set amount, subject to adjustment by the General Assembly.

Section 2 of the Act provides that notwithstanding Code Section 56-3-2332(B), for 2017 and 2018, the annual registration fee for license plates issued pursuant to Code Section 56-3-2332 is \$789.

Effective Date: June 3, 2016

House Bill 4717 (Act No. 174)

South Carolina Farm Aid Fund

The historic flood of October 2015 caused unprecedented damage to South Carolina with devastating impacts on South Carolina farmers and the State's agriculture industry. In response, the South Carolina Farm Aid Fund ("Fund") was created under Code Section 46-1-160, and \$40 million was appropriated to the Fund to operate a grant program that provides financial assistance to farmers. The Department of Agriculture ("DOA") shall administer the grant program, and the Department will assist by providing auditing services, accounting services, and review and oversight of all financial aspects of the grant program. The Farm Aid Advisory

Board is created to make recommendations to the DOA regarding the DOA's duties in administrating the grant program.

To be eligible for a grant, a person must have:

1. Experienced a verifiable loss of agricultural commodities of at least 40% as a result of the catastrophic flooding of October 2015, for which the Governor declared a state of emergency in South Carolina; and the United States Secretary of Agriculture issued a Secretarial Disaster Declaration for the county in which the farm is located;
2. A farm number issued by the Farm Service Agency; and
3. Signed an affidavit, under penalty of perjury, certifying that each fact of the loss presented by the person is accurate.

A person must apply for a grant not later than 45 days after the Farm Aid Advisory Board adopts an application process.

Within 45 days of the completion of the awarding of grants, but no later than June 30, 2017, the Farm Aid Advisory Board will be dissolved and any remaining funds will lapse to the general fund.

Effective Date: May 18, 2016, and applies to any loss created by a disaster after September 2015.

Senate Bill 667 (Act No. 270)

Boundary Clarification Between South Carolina and North Carolina

Intent

This Act clarifies the location of the boundary between North Carolina and South Carolina along Horry, Dillon, Marlboro, Chesterfield, Lancaster, York, Cherokee, Spartanburg, Greenville, Pickens, and Oconee counties. Code Section 1-1-10. This Act is intended only to address the effects on persons whose residences and businesses are determined to be located in South Carolina rather than North Carolina as a result of the boundary clarification. An individual or business whose residence or business location is determined to be located in South Carolina, rather than North Carolina where the residence or business had previously been taxed, should not be liable for back taxes to South Carolina solely as a result of the clarification.

NOTE: This Act does not apply to persons whose residences and businesses are not affected by the boundary clarification.

Below is a brief summary of Act No. 270 which is limited to the tax implications of the Act. The summary addresses income tax; tax credits and incentives; real and personal property taxes

(other than motor vehicles); motor vehicle registration and property tax consequences; sales tax and admissions tax; deed recording and county filing fees; tax on cigarettes and tobacco products; motor fuel taxes and user fees; back taxes; refunds; and the Department's ability to compromise taxes.

Income Tax

For South Carolina income tax purposes:

1. Individuals whose state of residency changes from North Carolina to South Carolina or from South Carolina to North Carolina as a result of the boundary clarification must be treated as if the individual moved to or from South Carolina on January 1, 2017. Code Section 12-6-5600(A).
2. For businesses whose property location changes from North Carolina to South Carolina or from South Carolina to North Carolina as a result of the boundary classification, for income tax purposes the property is treated as if it moved into or out of South Carolina on January 1, 2017. Code Section 12-6-5600(B).

Tax Credits and Incentives

For purposes of all South Carolina tax credits or other tax incentives, "new jobs" are not created in South Carolina by employees whose work location is changed from North Carolina to South Carolina as a result of the boundary clarification, as contained in the amendments in Section 1-1-10, effective January 1, 2017, nor is there any new investment in South Carolina as a result of property that changes location from North Carolina to South Carolina as a result of the boundary clarification. Code Section 12-2-115.

Real and Personal Property Taxes (Other Than Motor Vehicles)

The following property tax consequences apply as a result of the border clarification:

1. On January 1, 2017, any real property which was not on the South Carolina real property tax rolls solely because prior to the boundary clarification it was considered located in North Carolina must be placed on the South Carolina property tax rolls. The real property must be valued based on the latest reassessment date for similar types of property in that location. The 15% cap on the value increases contained in Code Section 12-37-3140 does not apply to this property in the year it is first placed on the tax rolls. Code Section 12-37-140(A).
2. For 2017 only, real property and personal property with a statutory lien date of December 31 whose location is considered to have changed from North Carolina to South Carolina as a result of the boundary clarification will have a lien date of January 1, 2017, rather than December 31 of the preceding year. For all subsequent property tax years the lien date will return to December 31 of the preceding year. Code Section 12-37-140(B).

3. The lien date for property taxes is the date on which the property tax becomes a fixed liability of the taxpayer. Code Section 12-37-140(C).
4. For 2017 only, the lien date for nonbusiness personal property (other than motor vehicles) is January 1, 2017, for individuals whose state of residency changes from North Carolina to South Carolina solely as a result of the boundary clarification. For all subsequent years, the lien date shall return to December 31 of the preceding tax year. Code Section 12-37-155.
5. If a property is subject to property taxes in both North Carolina and South Carolina as a result of the differing lien dates for North Carolina and South Carolina, the taxpayer is only liable for property taxes in the state where the property is deemed located after the boundary clarification. Code Section 12-37-140(F).
6. Taxpayers affected by the boundary clarification must apply for all property tax exemptions, special valuations, and special assessment ratios in accordance with and by the dates specified in South Carolina law. Code Section 12-37-140(E).
7. Agricultural use property whose location is considered to change from South Carolina to North Carolina as a result of the boundary clarification is not subject to roll-back of taxes under Code Section 12-43-220(d) because of the deemed location change. Code Section 12-37-140(D).

Motor Vehicle Registration and Property Tax Consequences

An individual whose state of residency changes from North Carolina to South Carolina solely as a result of the boundary clarification must register his motor vehicle as a new resident of South Carolina in accordance with Code Section 56-3-210 and pay property taxes in accordance with Chapter 37, Article 21, Title 12. For purposes of Code Section 12-37-145, an individual's residency must be determined on the date of the boundary clarification (which is January 1, 2017). Code Section 12-37-145(A).

A business with motor vehicles whose business location changes from North Carolina to South Carolina solely as a result of the boundary clarification is considered to have moved into South Carolina on January 1, 2017, and must register its motor vehicles in accordance with South Carolina law for moving business property into South Carolina based on the date of the boundary clarification (which is January 1, 2017), and personal property taxes for motor vehicles must be paid in accordance with Article 21, Chapter 37, Title 12. Code Section 12-37-145(B).

Refunds for motor vehicle personal property taxes for persons whose residency or business location is changed from South Carolina to North Carolina as a result of the boundary clarification must be provided, if applicable, on a prorated basis in accordance with Code Section 12-37-2620. Code Section 12-37-145(C).

If as a result of the boundary clarification an individual is required to register his personal motor vehicle in South Carolina and, if the property taxes on that motor vehicle would have been less in North Carolina, the individual may receive a tax rebate from the applicable South Carolina

county for the difference between the tax the individual was required to pay in South Carolina and the tax the individual was required to pay in North Carolina on that same vehicle based on the latest North Carolina assessment for the motor vehicle. The individual is entitled to this rebate for two years, including any partial year. The individual must provide the county with a copy of the last North Carolina county property tax assessment for the same motor vehicle to receive this rebate. Code Section 12-37-150.

Sales Tax and Admissions Tax

Any business that is required to collect or pay sales and use taxes or admissions taxes whose business location changes from North Carolina to South Carolina as a result of the boundary clarification is required to obtain a South Carolina retail license or admissions tax license for that location before January 1, 2017, and must begin collecting and paying South Carolina sales and use taxes or admissions taxes on January 1, 2017. The retailer must apply for a retail or admissions tax license prior to January 1, 2017, and indicate on the license application the date the taxpayer anticipates beginning to collect sales, use, or admissions taxes is January 1, 2017. Code Section 12-36-2695.

Deed Recording and County Filing Fees

If as a result of the boundary clarification property is considered to have changed locations from North Carolina to South Carolina and if solely as a result of this change a deed is filed in South Carolina, no deed recording fees are due on this filing and no county filing fees may be charged. Code Section 12-24-160.

Tax on Cigarettes and Tobacco Products

If the location of a retailer that sells cigarettes and tobacco products changes from South Carolina to North Carolina as a result of the boundary clarification and the retailer has South Carolina tax-paid cigarettes and tobacco products in inventory on the date of the boundary change, then the retailer is entitled to a refund of South Carolina cigarette and tobacco taxes paid on those cigarette and tobacco products if North Carolina imposes a tax on those cigarette and tobacco products. This refund may be issued to the retailer notwithstanding that the South Carolina tax was paid by the wholesaler from whom the retailer purchased the cigarettes and tobacco products. The retailer must provide proof that the North Carolina cigarette taxes were paid on the same cigarettes and tobacco that was previously taxed by South Carolina. Code Section 12-21-820(A).

If North Carolina does not impose a tax on the cigarette and tobacco products in inventory as a result of the boundary clarification, the retailer is entitled to a refund of the South Carolina cigarette and tobacco taxes to the extent the South Carolina tax exceeds the North Carolina tax. The refund amount is calculated based on the inventory information required by North Carolina as a result of the boundary clarification. Code Section 12-21-820(B).

Any wholesaler who sold South Carolina tax-paid cigarettes to a retail business is not entitled to a refund of these taxes because of a change in the retailer's location from South Carolina to North Carolina as a result of the boundary clarification. Code Section 12-21-820(C).

Motor Fuel Taxes and User Fees

A retailer that sells motor fuel whose business location changes from South Carolina to North Carolina as a result of the boundary clarification is allowed a refund of South Carolina motor fuel taxes or user fees if North Carolina requires the retailer to pay North Carolina motor fuel taxes or user fees on that same fuel. Code Section 12-28-350.

Back Taxes

When an individual's residency or a taxpayer's property or business location is considered to have changed from North Carolina to South Carolina solely as a result of the boundary clarification, the individual or taxpayer is not liable for any taxes for periods prior to the boundary clarification date based solely on a claim that the individual was a resident or the taxpayer's property or business location was located in South Carolina in the prior year. Code Section 12-2-120(A).

Refunds

When an individual's residency or a taxpayer's property or business location is considered to have changed from South Carolina to North Carolina solely as a result of the boundary clarification, the individual or taxpayer is not entitled to a refund of any state, county, or local taxes or license fees for periods prior to the boundary clarification date based solely on a claim that the individual was not a resident of South Carolina or the taxpayer's property or business location was not in South Carolina in prior years. Code Section 12-2-120(B).

Taxpayers who have sold products or services subject to South Carolina taxes to persons whose residence or location is considered to have changed from South Carolina to North Carolina solely as a result of the boundary clarification are not allowed a refund for any taxes paid prior to the boundary clarification as a result of these sales. Code Section 12-2-120(C).

Department's Ability to Compromise Taxes

In the year containing the date of the boundary clarification, the Department has the authority to compromise taxes that result in taxation in both South Carolina and North Carolina solely because of the boundary clarification. Code Section 12-2-130.

Effective Date: January 1, 2017

REGULATORY LEGISLATION

House Bill 5245 (Act No. 248)

Coupons and Rebates for the Purchase of Wine and Beer

Code Section 61-4-736 has been added to allow wine manufacturers, vintners, wineries, importers, and retailers to offer or sponsor coupons and rebates to consumers for the purchase of wine. The types of coupons and rebates allowed include, but are not limited to, retailer instant redeemable coupons, mail-in rebates, and coupons and rebates offered or redeemed through any electronic means. Manufacturer, winery, vintner, and importer coupons must be made available upon request to a licensed retailer.

However, wholesalers are prohibited from participating in the procurement, redemption, or other costs associated for any coupon or rebate for wine offered or sponsored by a manufacturer, winery, vintner, importer, or retailer. Also, wineries, wine manufacturers, vintners, importers, and wholesalers are prohibited from offering or participating in the procurement, redemption, or other costs associated with paper instant redeemable coupons and scanback coupons for wine in South Carolina.

Code Section 61-4-945 has been added to allow beer manufacturers, brewers, importers, and retailers to offer or sponsor coupons and rebates to consumers for the purchase of beer. The types of coupons and rebates allowed include, but are not limited to, retailer instant redeemable coupons, mail-in rebates, and coupons and rebates offered or redeemed through any electronic means. Manufacturer, brewer, and importer coupons and rebates must be made available upon request to a licensed retailer.

However, wholesalers are prohibited from participating in the procurement, redemption, or other costs associated for any coupon or rebate for beer offered or sponsored by a manufacturer, brewer, importer, or retailer. Also, beer manufacturers and wholesalers are prohibited from offering or participating in the procurement, redemption, or other costs associated with paper instant redeemable coupons and scanback coupons for beer in South Carolina.

Effective Date: June 5, 2016

House Bill 5034 (Act No. 254)

Bingo Tax Act – Amended

Article 24, Chapter 21 of Title 12, concerning the taxation and regulation of bingo games, has been amended as follows:

1. Code Section 12-21-4320 has been added to require that the Department create a bingo webpage on the Department's website. The webpage will serve as a clearinghouse for information and access to the Bingo Tax Act (Article 24, Chapter 21 of Title 12), and its

implementation and regulation. The link also must contain access to information pertaining to licenses, the manner in which to file complaints, and clarifying issues the Department finds in connection with violations of the Bingo Tax Act. The webpage also must include a process for submitting questions to the Department's bingo division.

2. Code Section 12-21-3940(B), which had given the Department 30 days to approve or reject an application filed by a nonprofit organization to conduct bingo games, has been amended to allow the Department 45 days to approve or reject the application.
3. Code Section 12-21-3990(A)(6), which had provided all devices, including the master-board, used to show what numbers have been called during a game must not be changed or turned off until the winners are verified, has been amended so that all devices, including the master-board, used to show what numbers have been called during a game must not be intentionally changed, obstructed, or turned off by the promoter until the winners are verified.
4. Code Section 12-21-4000(15), allowing the house (collectively a licensed nonprofit organization and promoter) to hold promotions of special events during a session offering players prizes other than from the play of bingo, has been amended to increase the maximum amount of cash or merchandise awarded as prizes from these promotions from \$100 to \$200 for each session. In addition, a provision in this subsection that prevented the promotion from being a form of gambling or a game of chance has been amended to prevent the promotion from requiring any consideration for participation.
5. Code Section 12-21-4005 provides that the operation of bingo games excludes machines and lottery games, including video poker lottery games, which are prohibited by Code Sections 12-21-2710, 16-19-40, and 16-19-50. Code Section 12-21-4005 has been amended to also exclude raffles as defined in Code Section 33-57-110.
6. Code Sections 12-21-4090(C) and (D), relating to the creation and management of bingo checking accounts and bingo savings accounts, have been amended. Code Section 12-21-4090(C) requires that an organization having an annual bingo license must establish and maintain a regular checking account, referred to as a "bingo account," and may maintain an interest-bearing bingo savings account. All funds derived from the conduct of bingo, less the amount awarded as cash prizes, must be deposited into the bingo account, and no other funds may be deposited in the bingo account unless there is a deficit, in which event the organization and promoter must each deposit a loan of 50% of the deficit.

With the amendments to Code Section 12-21-4090(C), if the organization is unable to make the 50% contribution, the promoter may deposit 100% of the deficit which the balance must be, at the election of the promoter and with the consent of the nonprofit organization, carried as either a loan or a charitable donation to the organization from the promoter. Each loan to an organization from the promoter must be authorized in writing by a duly authorized officer of the licensed nonprofit organization. The promoter only may have recourse to these loans from the funds in the charitable bingo account.

Code Section 12-21-4090(D) requires funds withdrawn from the bingo account to be by preprinted, consecutively numbered checks or withdrawal slips, jointly signed by a properly authorized representative of the licensed nonprofit organization and promoter and made payable to a person or organization.

The amendments to Code Section 12-21-4090(D) require that all expenses related to the charitable bingo operation must be paid from the operations bingo account and allow funds from the bingo account to be withdrawn by electronic methods or recurring online payments. Electronic payments must be authorized by a duly authorized representative of the licensed nonprofit organization and promoter in writing.

7. Code Section 12-21-4190(B), relating to the method the Department must use to distribute the revenue it retains from the sale of bingo cards, has been amended to provide that 28%, increased from 26%, must be distributed to the sponsoring charity for which the bingo cards were purchased, and that the remaining 72%, decreased from 74%, must be distributed in accordance with Code Section 12-21-4200. Code Section 12-21-4200, governing how the revenue is distributed, has been amended.

Effective Date: June 7, 2016

REENACTED TEMPORARY PROVISOS

The following temporary provisos were enacted in prior legislative sessions and were reenacted by the General Assembly in 2016. Temporary provisos are effective for the State fiscal year July 1, 2016 through June 30, 2017, and will expire June 30, 2017, unless reenacted by the General Assembly in the next legislative session.

ADMINISTRATIVE and PROCEDURAL MATTERS

House Bill 5001, Part IB, Section 93, Proviso 93.7 (Act No. 284)

2% Reduction on Interest Rate on Tax Refunds

This temporary proviso decreases by 2% the interest rate for tax refunds paid during the current fiscal year. The revenue resulting from this reduction must be used for operations of the State's Guardian ad Litem Program.

House Bill 5001, Part IB, Section 117, Proviso 117.86 (Act No. 284)

Additional 1% Reduction on Interest Rate on Tax Refunds

This temporary proviso decreases by 1% the interest rate for tax refunds paid during the current fiscal year, in addition to the 2% reduction reauthorized in Temporary Proviso 93.7 (for a total 3% interest rate reduction). Of the revenue resulting from this 1% reduction, \$300,000 must be used by the Senate for operating expenses of the Joint Citizens and Legislative Committee on Children. The remaining revenue must be used by the Department of Juvenile Justice for programs for mentoring or other alternatives to incarceration. The revenue resulting from the 2% reduction continues to be used for operations of the State's Guardian ad Litem Program.

House Bill 5001, Part IB, Section 109, Proviso 109.6 (Act No. 284)

Voluntary Website Posting of Tax Return Information for Candidates and Gubernatorial Appointees

This temporary proviso provides that the Department must develop a program to process inquiries from a candidate for an office in South Carolina or its political subdivisions or any gubernatorial appointee concerning that candidate's or appointee's state income tax filings. Upon request by the candidate or appointee in connection with his own income tax return, the Department must determine if the candidate or appointee has filed his annual state income tax returns for the past ten years, paid all income taxes due during that time period, and, if applicable, satisfied all judgments, liens, or other penalties for failure to pay income taxes when due.

Unless the candidate or appointee requests otherwise, the following information will be posted on the Department's website:

1. The candidate's or appointee's name;
2. The years that the candidate or appointee was required to file income tax returns during the last ten years and any years that he was not required to file income tax returns;
3. Whether the candidate or appointee filed income tax returns in each of the ten years that he was required to file an income tax return;
4. Whether the candidate or appointee paid income taxes due each year that he was required to file an income tax return; and
5. Whether the candidate or appointee had a judgment, lien, or other penalty levied against him for failure to pay income taxes when due; the year of any levy; and whether the judgment, lien or other penalty has been satisfied.

A candidate's or appointee's inquiry constitutes a waiver of confidentiality with the Department concerning the information posted. The Department may not post complete income tax returns.

MISCELLANEOUS TAX LEGISLATION

House Bill 5001, Part IB, Section 118, Proviso 118.7 (Act No. 284)

Admissions Tax Rebate – Motorsports, Tennis, and Soccer Facilities

This temporary proviso provides that up to \$114,000 in admissions tax revenue collected annually from all events held at a NASCAR sanctioned motor speedway or racetrack that hosts at least one race each year featuring the preeminent NASCAR cup series must be rebated to the motorsports entertainment complex facility in the current fiscal year to keep a NASCAR race at the facility. In addition, any sports facility that either hosts at least one preeminent Women's Tennis Association-sanctioned tournament or that operates as the home venue for a professional soccer team participating in the United Soccer Leagues, second division or higher, must be rebated half of the facility's admissions tax revenue for the fiscal year and used by that facility for marketing the events held at the facility.

House Bill 5001, Part IB, Section 109, Proviso 109.7 (Act No. 284)

Admissions Tax Exemption for Payment to Nonprofit Athletic Booster Organizations for Right to Purchase Athletic Event Season Tickets

Article 17, Chapter 21 of Title 12 provides for an admissions tax of 5% on paid admissions to places of amusement within South Carolina. Code Section 12-21-2420(4) provides that the admissions tax applies to paid admissions to all athletic events of any institution above the high school level.

This temporary proviso provides that any amount that an accredited college or university requires a season ticket holder to pay to a nonprofit athletic booster organization to receive the right to purchase athletic event tickets is exempt from admissions tax. The nonprofit athletic booster organization must be exempt from federal income taxation.

House Bill 5001, Part IB, Section 1, Proviso 1.15 (Act No. 284)

Local Government School Buses – Motor Fuel Tax Exemption

This temporary proviso provides that motor fuel used in school buses operated by school districts, other governmental agencies, and “head start” agencies for purposes of transporting students for school or school-related activities is exempt from the State motor fuel tax.

Note: Motor fuel used in school buses owned by the state is exempt from the State motor fuel tax under Code Section 12-28-710(12).

House Bill 5001, Part IB, Section 33, Proviso 33.10 (Act No. 284)

Nursing Home Bed Franchise Fee – Suspension

This temporary proviso reenacts the suspension of the nursing home bed franchise fee imposed on February 1, 2002, but subsequently suspended July 1, 2002.

REGULATORY LEGISLATION

House Bill 5001, Part IB, Section 117, Proviso 117.106 (Act No. 284)

Donation of Alcoholic Liquors

This temporary proviso provides that a wholesaler may donate beer, wine, and alcoholic liquors to a nonprofit organization that has a license, including a temporary license, to serve the applicable beverage. This provision only applies if the event hosted by the nonprofit organization creates an economic impact on State revenues.

LIST OF TEMPORARY PROVISOS

Temporary provisos were enacted as part of the 2016 annual budget - House Bill 5001, Part IB (Act No. 284). They are effective only for the current State fiscal year (July 1, 2016 – June 30, 2017). They expire on June 30th, unless reenacted by the General Assembly.

The following is a list of new provisos enacted during this legislative session and a list of provisos that were enacted in prior fiscal years and reenacted during this legislative session. A brief summary of the provisos can be found in this publication under the applicable subject matter categories.

NEW PROVISOS

Income Taxes

- Proviso 1A.9 Teaching Supplies and Materials – Reimbursement Amount Not Taxable or Refundable Income Tax Credit
- Proviso 109.15 Educational Credit for Exceptional Needs Children
- Proviso 117.142 Retail Facilities Revitalization Act – Repeal of Act Suspended

Property Taxes

- Proviso 113.9 Agricultural Use Exemption for Timberland – Impact of Additional County Requirements
- Proviso 117.142 Retail Facilities Revitalization Act – Repeal of Act Suspended

REENACTED PROVISOS

Income Taxes

- Proviso 1A.10 Teacher of the Year Awards – Not Subject to South Carolina Income Tax
- Proviso 118.10 Consumer Protection Services – Individual Income Tax Deduction

Property Taxes

- Proviso 1.51 Index of Taxpaying Ability – Imputed Value for Owner-Occupied Residential Property
- Proviso 117.38 Personal Property Tax Relief Fund

Sales and Use Taxes

- Proviso 117.37 Private Schools – Use Tax Exemption
- Proviso 117.57 Respiratory Syncytial Virus Medicines Exemption – Effective Date
- Proviso 117.61 Viscosupplementation Therapies – Sales and Use Tax Suspended

Miscellaneous (Administrative, Miscellaneous Taxes, Other and Regulatory)

Administrative:

- Proviso 93.7 2% Reduction on Interest Rate on Tax Refunds
- Proviso 109.6 Voluntary Website Posting of Tax Return Information for Candidates and Gubernatorial Appointees
- Proviso 117.86 Additional 1% Reduction on Interest Rate on Tax Refunds

Miscellaneous Taxes:

- Proviso 1.15 Local Government School Buses – Motor Fuel Tax Exemption
- Proviso 33.10 Nursing Home Bed Franchise Fee – Suspension
- Proviso 109.7 Admissions Tax Exemption for Payment to Nonprofit Athletic Booster Organizations for Right to Purchase Athletic Event Season Tickets
- Proviso 118.7 Admissions Tax Rebate – Motorsports, Tennis, and Soccer Facilities

Regulatory:

- Proviso 117.106 Donation of Alcoholic Liquors

A complete copy of this legislation can be obtained from the South Carolina Legislature's website at <http://www.scstatehouse.gov/>.