



Tax Legislative Update for 2018

SOUTH CAROLINA DEPARTMENT OF REVENUE

OFFICE OF GENERAL COUNSEL / POLICY SECTION

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TAX LEGISLATIVE UPDATE FOR 2018

This publication contains a brief summary of most of the significant changes in tax and regulatory laws enacted during the past legislative session and includes summaries of Act No. 266 (SC Taxpayer Protection and Relief Act) and Act No. 265 (SC Abandoned Buildings and Revitalization Act). This publication combines the legislative update summaries provided in SC Information Letter #18-12 and SC Information Letter #18-15. The summary is divided into categories, by subject matter, as indicated 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.

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 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 2018 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, 2019.

Also included are reminders of provisions which were enacted in a prior year but are being phased in or are effective in 2018 and 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.

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

BILL #	ACT #	SUBJECT
1043 – Sec. 1	265	Abandoned Buildings Credit – Repeal of Act Postponed
1043 – Sec. 2	265	Abandoned Buildings Credit – Subdivision of Multi-floor Structure on National Register
1043 – Sec. 3	265	Textile Credit – Definitions Amended
1043 – Sec. 4	265	International Shipping Activities – Use of Federal Election
1043 – Sec. 5.A & 5.B	265	Abandoned Buildings Credit – Allocation and Carryforward Amended
1043 – Sec. 5.C	265	Certified Historic Credit – Allocation and Carryforward Amended
1043 – Sec. 6.A	265	Increase in Purchases of South Carolina Agricultural Products – New Credit
1043 – Sec. 6.B	265	Job Development Credits – Qualified Service-Related Facility Definition Expanded
1043 – Sec. 7	265	Direct Broadcast Satellite Services Gross Receipts – New Provision
3147 – Sec. 1	272 (2016)	Military Individual – Earned Income and Retirement Income – New Deduction; General Retirement and Age 65 and Older Deduction – Amended – Reminder
3516 – Sec. 15	40 (2017)	Motor Fuel User Fee Credit – New Refundable Credit – Reminder
3516 – Sec. 16	40 (2017)	South Carolina Earned Income Credit – New Credit – Reminder
3516 – Sec. 17	40 (2017)	Two-Wage Earner Credit – Credit Increased – Reminder
3516 – Sec. 18	40 (2017)	Tuition Tax Credit – Credit Increased – Reminder
4077	247	Educational Credits for Exceptional Needs Children – Permanent Provision
4950 – Proviso 1A.9	264	Teaching Supplies and Materials – Reimbursement Amount Not Taxable or Refundable Income Tax Credit – Reenacted Temporary Proviso
4950 – Proviso 1A.10	264	Teacher of the Year Awards – Not Subject to South Carolina Income Tax – Reenacted Temporary Proviso
4950 – Proviso 117.124	264	Retail Facilities Revitalization Act – Repeal of Act Suspended – Reenacted Temporary Proviso
4950 – Proviso 118.10	264	Consumer Protection Services – Individual Income Tax Deduction – Reenacted Temporary Proviso

INCOME TAXES, BANK TAXES, WITHHOLDING, and CORPORATE LICENSE FEES (CONTINUED)

BILL #	ACT #	SUBJECT
5341 – Sec. 2 & 3 – Sec. 4 – Sec. 5 – Sec. 6 – Sec. 7 – Sec. 8	266	South Carolina Taxpayer Protection and Relief Act – Internal Revenue Code Conformity – Income Tax Brackets Inflation Adjustment – New South Carolina Dependent Exemption – Deduction Amount for Dependents under Age 6 – Taxpayer Education – Agency Report

PROPERTY TAXES and FEES IN LIEU OF PROPERTY TAXES

BILL #	ACT #	SUBJECT
1043	265	Abandoned Buildings Credit and Textile Credit - Amended
3247 – Sec. 1 & 10	89 (2017)	Mopeds – Exemption from Property Taxes – Reminder
3516 – Sec. 19	40 (2017)	Manufacturing Property – New Partial Exemption – Reminder
4715 – Sec. 8	223	Boats and Watercraft – Property Taxes and New Registration and Titling Procedures
4950 – Proviso 1.48	264	Index of Taxpaying Ability – Imputed Value for Owner-Occupied Residential Property – Reenacted Temporary Proviso
4950 – Proviso 109.12	264	Notification of Protest to Affected Counties and School Districts – New Temporary Proviso
4950 – Proviso 113.8	264	Agricultural Use Exemption for Timberland – Impact of Additional County Requirements – Reenacted Temporary Proviso
4950 – Proviso 117.38	264	Personal Property Tax Relief Fund – Reenacted Temporary Proviso
4950 – Proviso 117.124	264	Retail Facilities Revitalization Act – Repeal of Act Suspended – Reenacted Temporary Proviso
4950 – Proviso 117.134	264	Improvements to Property Damaged by Catastrophic Weather Event – Reenacted Temporary Proviso

SALES and USE TAXES

BILL #	ACT #	SUBJECT
4009	257	Motorsports Entertainment Complex Investment Act – New Exemption
4950 – Proviso 50.20	264	Navy Base Intermodal Facility – Distribution Facility Eligibility – New Temporary Proviso
4950 – Proviso 117.37	264	Private Schools – Use Tax Exemption – Reenacted Temporary Proviso
4950 – Proviso 117.57	264	Respiratory Syncytial Virus Medicines Exemption – Effective Date – Reenacted Temporary Proviso
4950 – Proviso 117.61	264	Viscosupplementation Therapies – Sales and Use Tax Suspended – Reenacted Temporary Proviso
4950 – Proviso 117.133	264	State Ports Authority – Distribution Facility Eligibility – Reenacted Temporary Proviso
Regulation Doc. No. 4665	117-307.1	Charges Imposed by Hotels, Motels, and Other Facilities – Amended Regulation

MISCELLANEOUS

BILL #	ACT #	SUBCATEGORY	SUBJECT
		Administrative & Procedural	
1043 – Sec. 8	265		Revenue Procedures Act – Definitions, Appeals Procedures, and Refunds
4950 – Provisos 93.7 & 117.86	264		3% Reduction on Interest Rate on Tax Refunds – Reenacted Temporary Provisos
4950 – Proviso 109.6	264		Voluntary Website Posting of Tax Return Information for Candidates and Gubernatorial Appointees – Reenacted Temporary Proviso
		Miscellaneous Taxes	
3516 – Sec. 2	40 (2017)		Motor Fuel User Fee – Rate Change – Reminder
4151	149 (2016)		Cigarette Stamp Tax Program – New Process – Reminder
4950 – Proviso 1.15	264		Local Government School Buses – Motor Fuel User Fee Exemption – Reenacted Temporary Proviso
4950 – Proviso 33.10	264		Nursing Home Bed Franchise Fee – Suspension – Reenacted Temporary Proviso
4950 – Proviso 118.7	264		Admissions Tax Rebate – Motorsports, Tennis, and Soccer Facilities – Reenacted Temporary Proviso
		Other (Including Local Taxes)	
67	180		Redevelopment Fees – Amended
1038	155		Capital Projects Sales and Use Tax – Extension for Certain Reimpositions
3516 – Sec. 3	40 (2017)		Motor Carrier Road Tax – Rate Change – Reminder
3516 – Sec. 8	40 (2017)		New Motor Carrier Road Use Fee – Administered by the South Carolina Department of Motor Vehicles – Reminder
3516 – Sec. 8	40 (2017)		Motor Carrier Business License Fee or Tax Imposed by Municipality or County – Reminder
4272	278		Lexington County School District Sales and Use Tax – Extension
		Regulatory	
812 – Sec. 3	192		Participation in Bingo Games by Volunteers – New Code Section
820	193		Referendum Questions for Temporary Alcohol Licenses and Beer and Wine Permits
3139	236		Soccer Complex – New Licensing Provisions for Beer and Wine and for Alcoholic Liquors; Baseball Complex – Definition Amended
3549	252		Locations Seeking License to Sell Liquor for On-Premises Consumption – Consent in Case of Proximity to Church, School, or Playground
4729 – Sec. 2 & 6	147		Maximum Retail Dealer Liquor Licenses Issued to One Licensee – New Code Section

MISCELLANEOUS (CONTINUED)

BILL #	ACT #	SUBCATEGORY	SUBJECT
		Regulatory (Continued)	
4729 – Sec. 3	147		Prohibition on Interests in Retail Liquor Stores – New Code Section
4729 – Sec. 4	147		“New Alcoholic Liquor” Sales for On-Premises Consumption

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

House Bill 5341 (Act No. 266)

South Carolina Taxpayer Protection and Relief Act

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

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

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

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

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

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

Internal Revenue Code Conformity (Sections 2 and 3)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- **Taxpayer Education (Section 7)**

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

- **Agency Report (Section 8)**

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

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

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

International Shipping Activities – Use of Federal Election

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

Effective Date: Tax years beginning after 2017

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

Direct Broadcast Satellite Services Gross Receipts – New Provision

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

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

House Bill 4077 (Act No. 247)

Educational Credits for Exceptional Needs Children – Permanent Provision

Code Section 12-6-3790 has been added to make the two credits for exceptional needs children permanent. In prior years these credits were authorized by a temporary proviso in the state’s annual appropriations act. The statute is summarized below.

The fund, organized as a public charity, may accept contributions, which it must use to provide scholarships to exceptional needs children attending eligible schools. The public charity, governed by five appointed directors, may award grants for the cost of tuition, up to \$11,000, to a qualifying student to attend an eligible school.

The statute authorizes tax credits up to \$14 million for funding tuition for exceptional needs children enrolled in eligible schools that have been approved by the Education Oversight Committee. The General Assembly may increase the credit limits in the annual general appropriations act. Below is a brief summary of the two tax credits authorized by the Act.

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.
 - c. A taxpayer may only claim this credit for contributions made during the tax year.
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 \$12 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 the statute, "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).

Personal Information Protections. Code Section 12-6-3790(B)(4) provides that information contained in or produced from a tax return, document, or magnetically or electronically stored data utilized by the Department or the public charity in the exercise of its duties as provided in this section must remain confidential and is exempt from disclosure pursuant to the Freedom of Information Act. In addition, personally identifiable information, as described in the Family Educational Rights and Privacy Act and individual health records, or the medical or wellness needs of children applying for or receiving grants must remain confidential and is not subject to disclosure pursuant to the Freedom of Information Act.

Effective Date: Income tax years beginning after 2017. All tax credits earned as a result of a contribution made to the Educational Credit for Exceptional Needs Children's Fund in 2018 apply to the cumulative total of \$12 million regardless of when in 2018 the contribution is made. All tax credits earned as a result of a tuition payment made by a taxpayer to an eligible school for an exceptional needs child within his custody or care in 2018 apply to the cumulative total of \$2 million regardless of when in 2018 the payment is made.

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

Increase in Purchases of South Carolina Agricultural Products – New Credit

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

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

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

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

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

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

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

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

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

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

Effective Date: Tax years beginning after 2017

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

Abandoned Buildings Credit – Repeal of Act Postponed

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

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

Effective Date: October 3, 2018

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

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

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

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

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

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

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

Abandoned Buildings Credit – Allocation and Carryforward Amended

Code Section 12-67-140(B) provides that the entire abandoned building income tax credit is earned in the taxable year in which the site (or applicable phase thereof) is placed in service, but must be taken in equal installments over a three-year period beginning with that year. Code

Section 12-67-140(B)(3)(a) has been amended to provide that any unused credit may be carried forward for the succeeding five years at the individual, partnership, or limited liability company level. Previously, the statute did not contain the language “at the individual, partnership, or limited liability company level.”

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

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

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

Certified Historic Credit – Allocation and Carryforward Amended

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

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

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

Textile Credit – Definitions Amended

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

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

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

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

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

Effective Date: Tax years beginning after 2017

Job Development Credits – Qualified Service-Related Facility Definition Expanded

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

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

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

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

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

Effective Date: Tax years beginning after 2017

REENACTED TEMPORARY PROVISOS

The following temporary provisos were enacted in a prior legislative session and were reenacted by the General Assembly in 2018. Temporary provisos are effective for the State fiscal year July 1, 2018 through June 30, 2019, and will expire June 30, 2019, unless reenacted by the General Assembly in the next legislative session.

House Bill 4950, Part IB, Section 118, Proviso 118.10 (Act No. 264)

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 pre-theft status.

House Bill 4950, Part IB, Section 1A, Proviso 1A.9 (Act No. 264)

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

This temporary proviso allows public school teachers identified in the *Professional Certified Staff*, 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 South Carolina First Steps to School Readiness, a \$275 reimbursement designed to offset expenses incurred for teaching supplies and materials. The reimbursement is not considered taxable income by South Carolina.

This proviso also provides 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 2018 tax return. The credit is the lesser of \$275 or the amount spent on teacher supplies and materials. The return or amended return claiming the credit must be filed on or before June 30, 2019, and may include expenses incurred after December 31, 2018. Note: Any person who receives the reimbursement provided by this proviso is not eligible for the income tax credit allowed by this proviso.

House Bill 4950, Part IB, Section 1A, Proviso 1A.10 (Act No. 264)

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.

House Bill 4950, Part IB, Section 117, Proviso 117.124 (Act No. 264)

Retail Facilities Revitalization Act – Repeal of Act Suspended

The South Carolina Retail Facilities Revitalization Act (Title 6, Chapter 34) was enacted in 2006 (Act No. 285) to create an incentive for the renovation, improvement, and redevelopment of abandoned retail facility sites in South Carolina. A taxpayer who renovates, improves, 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 2018 - 2019.

REMINDERS

The following provisions were enacted prior to 2018 but are being phased in or are effective in 2018 and thereafter. The provisions are summarized below for informational purposes.

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: Tax years beginning after 2015

House Bill 3516, Section 15 (Act No. 40)

Motor Fuel User Fee Credit – New Refundable Credit

Code Section 12-6-3780 has been added to allow a resident taxpayer a refundable income tax credit for preventative maintenance costs associated with a private passenger motor vehicle or motorcycle registered in South Carolina during the year, subject to certain limitations.

The credit is the lesser of: (1) the resident taxpayer's preventative maintenance expenses; or (2) the resident taxpayer's actual motor fuel user fee increase incurred for that motor vehicle as a result of increases in the motor fuel user fee pursuant to Code Section 12-28-310(D).

Other credit requirements and provisions include:

1. A resident taxpayer may claim the credit for up to two private passenger motor vehicles. The credit is calculated separately for each vehicle.
2. The credit must be claimed on the resident taxpayer's income tax return.
3. The Department may require any documentation it deems necessary to implement the provisions of this section.

4. A maximum aggregate amount of credit is available per tax year as follows:

Tax Year	Total Credit Allowed for All Taxpayers
2018	\$40 million
2019	\$65 million
2020	\$85 million
2021	\$110 million
2022 and thereafter, if reauthorized	\$114 million

If the Revenue and Fiscal Affairs Office estimates that the total amount of credits claimed will exceed the maximum amount of aggregate credit allowed, it shall certify to the Department a pro rata adjustment to the credit otherwise provided.

For purposes of this credit, “private passenger motor vehicle,” “motor fuel expenditures,” and “preventative maintenance” are defined as follows:

- “Private passenger motor vehicle” is defined in Code Section 56-3-630. Code Section 56-3-630 provides, in part, that a private passenger motor vehicle is a motor vehicle designed, used, and maintained for the transportation of ten or fewer persons and trucks having an empty weight of 9,000 pounds or less and a gross weight of 11,000 pounds or less.
- “Motor fuel expenditures” are purchases of motor fuel within South Carolina to which the motor fuel user fee imposed pursuant to Code Section 12-28-310(D) applies.
- “Preventative maintenance” includes costs incurred within South Carolina for new tires, oil changes, regular vehicle maintenance, and the like.

Expiration of Credit: Unless reauthorized by the General Assembly, the credit may not be claimed for any tax year beginning after 2022.

Additional Information: See SC Revenue Ruling #17-6 for more information regarding the credit.

Effective Date: Tax years beginning after 2017

House Bill 3516, Section 16 (Act No. 40)

South Carolina Earned Income Credit – New Credit

Code Section 12-6-3632 has been added to provide a full-year resident individual a nonrefundable South Carolina earned income tax credit. The credit is equal to 125% of the federal earned income tax credit allowed the taxpayer under Internal Revenue Code Section 32.

The credit will be phased in over six years in equal installments of 20.83% beginning in 2018 as follows:

Tax Year	Credit Amount
2018	20.83% of federal earned income credit
2019	41.67% of federal earned income credit
2020	62.5% of federal earned income credit
2021	83.33% of federal earned income credit
2022	104.17% of federal earned income credit
2023 and thereafter	125% of federal earned income credit

Effective Date: Tax years beginning after 2017

House Bill 3516, Section 17 (Act No. 40)

Two-Wage Earner Credit – Credit Increased

Code Section 12-6-3330, providing a two-wage earner income tax credit for married individuals filing a joint return when both spouses have South Carolina earned income, has been amended to increase the maximum credit available from \$210 to \$350. Prior to this amendment, the credit was limited to 0.7% of the lesser of \$30,000 or the South Carolina qualified earned income of the spouse with the lower South Carolina qualified earned income for the tax year.

The amendment increases the \$30,000 threshold to \$50,000. It is phased in over six years in equal installments of \$3,333 each tax year as follows:

Tax Year	A	B	Maximum Credit (Columns A x B)
	Earned Income Maximum Threshold	Factor	
2018	\$33,333	0.7%	\$233
2019	\$36,667	0.7%	\$257
2020	\$40,000	0.7%	\$280
2021	\$43,333	0.7%	\$303
2022	\$46,667	0.7%	\$327
2023 and thereafter	\$50,000	0.7%	\$350

Effective Date: Tax years beginning after 2017

House Bill 3516, Section 18 (Act No. 40)

Tuition Tax Credit – Credit Increased

Code Section 12-6-3385, providing a refundable individual income tax credit for college tuition paid during a tax year, has been amended to increase the tuition tax credit to 50% of tuition paid during a tax year, not to exceed \$1,500, for tuition paid to both two-year institutions and four-year institutions.

Prior to amendment, the credit was equal to 25% of tuition paid during a tax year, not to exceed \$350 for tuition paid to a two-year institution, or \$850 for tuition paid to a four-year institution.

Code Sections 12-6-3385(A)(1)(b) and (c) have been added to provide that the maximum amount of credits allowed for all taxpayers may not exceed \$40 million in tax year 2018, and thereafter may not exceed the maximum amount in tax year 2018, plus a cumulative amount equal to the percentage increase in the Higher Education Price Index, not to exceed more than three percent a year. The Revenue and Fiscal Affairs Office shall certify the maximum credit to the Department. If the total amount of credits claimed by all taxpayers exceeds the maximum amount, then each credit must be reduced proportionately.

Effective Date: Tax years beginning after 2017

PROPERTY TAXES and FEES IN LIEU OF PROPERTY TAXES

House Bill 4715, Section 8 (Act No. 223)

Boats and Watercraft – Property Taxes and New Registration and Titling Procedures

Act No. 223 (“the Act”) establishes new procedures for the issuance of certificates of number (i.e., registrations) and titles for boats, boat motors and watercraft. The Act amends Title 50, Chapter 23 (See Code Sections 50-23-11, 50-23-70, 50-23-340, 50-23-345, 50-23-370, and new Code Sections 50-23-12 and 50-23-35) and adds new Article 26 to Chapter 37 of Title 12. These new procedures will affect the Department of Natural Resources (“DNR”), county auditors, county treasurers, and taxpayers.

Certificates of number and titles for boats, boat motors, and watercraft are administered by DNR. Since the filing and payment of property taxes is intertwined with these new registration and titling procedures, a brief summary of the procedures is provided below. Questions concerning these registration and titling procedures should be directed to DNR.

Under the Act, the registration period for boats, boat motors and watercraft will be changed from a three-year period to an annual period for all certificates of number issued or renewed after January 1, 2020. Any certificate of number awarded prior to January 1, 2020 will remain in effect for the full three-year term unless terminated or discontinued by DNR.

Beginning January 1, 2020, each county auditor annually must mail watercraft certificate of number renewal notices to owners of watercraft in the county as determined by DNR at least 45 days prior to expiration of the certificate. Code Section 50-23-370.

Under new Code Section 12-37-3200, which is effective January 1, 2020, the tax year for a boat, boat motor, or watercraft begins with the last day of the month in which DNR issues a certificate of number, and ends on the last day of the month in which the certificate of number expires or is due to expire. DNR must not issue a certificate of number until the property taxes have been paid on the boat, boat motor, or watercraft for the year for which the registration is to be issued.

All property taxes are due and payable 120 days from the date of purchase. Code Section 12-37-3200. When a boat, boat motor, or watercraft is first taxable in a county, the owner must file with the auditor of the county in which the taxpayer resides, a property tax return setting forth the county, school district, special or tax district, and municipality in which the boat, boat motor, or watercraft is principally located prior to filing an application for a certificate of number. Code Section 12-37-3220.

The county auditor must prepare a tax notice for all boats, boat motors, and watercraft owned by the same person and titled at the same time for each tax year. Code Section 12-37-3210. The notice must:

- Describe the boat, boat motor, or watercraft by name, model and identification number;
- Set forth the assessed value of the boat, the millage, the taxes due on each boat, and the tax year; and
- Contain information concerning a taxpayer's appeal rights.

The county auditor shall determine the assessed value of boats, boat motors, and watercraft and shall calculate the amount of taxes due on the property. Code Section 12-37-3230. The county treasurer or other official shall issue the taxpayer a paid receipt once all charges on the tax bill, including the taxes, have been paid. Code Section 12-37-3210. No certificate of number may be issued by DNR unless the application is accompanied by the receipt, or notice from the county treasurer, by other means satisfactory to DNR, of payment of the tax. Code Section 12-37-3210.

Note: The provisions of Article 26 do not apply to a boat, boat motor, or watercraft exempt from ad valorem taxation pursuant to Code Section 12-37-220(B)(38)(a) (watercraft and motors which have an assessment of not more than \$50), or classified as a primary or secondary residence under Code Section 12-37-224(B).

Effective Date: January 1, 2020

Senate Bill 1043 (Act No. 265)

Abandoned Buildings Credit and Textiles Credit

For changes made concerning the abandoned buildings credit and the textiles credit, see the summaries in the section above for Income Taxes, Bank Taxes, Withholding, and Corporate License Fees.

House Bill 4950, Part IB, Section 109, Proviso 109.12 (Act No. 264)

Notification of Protest to Affected Counties and School Districts

This temporary proviso requires the Department to notify any affected county and school district when a taxpayer, other than an individual, files a written protest pursuant to Code Section 12-60-2120. This section allows a property taxpayer to protest a property tax assessment or the denial of a property tax exemption.

Effective Date: This temporary proviso is effective for State fiscal year July 1, 2018 through June 30, 2019. It will expire June 30, 2019, 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 2018. Temporary provisos are effective for the State fiscal year July 1, 2018 through June 30, 2019, and will expire June 30, 2019, unless reenacted by the General Assembly in the next legislative session.

House Bill 4950, Part IB, Section 1, Proviso 1.48 (Act No. 264)

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 preceding 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 pursuant to Code Section 12-43-220(c) from all property taxes imposed for school operating purposes. School districts are reimbursed for lost revenue based on a three-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 three-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.

House Bill 4950, Part IB, Section 117, Proviso 117.134 (Act No. 264)

Improvements to Property Damaged by Catastrophic Weather Event

This temporary proviso provides that any improvements made to real property or personal property used as a residence, such as a mobile home or manufactured housing unit, damaged during the catastrophic weather event in October 2015 or Hurricane Matthew of 2016, after the event and before June 30, 2019, is not considered an improvement and does not require a re-appraisal. This provision only applies if as a result of the catastrophic weather event, the

improvements made to the property were funded by the United States Department of Housing and Urban Development Block Grant - Disaster Recovery program. This provision also applies if, at the discretion of the county and using qualifications determined by the county, the improvements were made with the assistance of a volunteer organization active in disaster, or a similar volunteer organization.

During the current fiscal year, the property tax value of an eligible property shall remain the same unless an assessable transfer of interest occurs. No refund is allowed on account of values adjusted as provided in this provision.

House Bill 4950, Part IB, Section 113, Proviso 113.8 (Act No. 264)

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 30 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 temporary 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.

House Bill 4950, Part IB, Section 117, Proviso 117.38 (Act No. 264)

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 a 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.

Retail Facilities Revitalization Act – Repeal of Act Suspended

The South Carolina Retail Facilities Revitalization Act (Title 6, Chapter 34) was enacted in 2006 (Act No. 285) to create an incentive for the renovation, improvement, and redevelopment of abandoned retail facility sites in South Carolina. A taxpayer who renovates, improves, 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 2018 - 2019.

REMINDERS

The following provisions were enacted prior to 2018 but are being phased in or are effective in 2018 and thereafter. The provisions are summarized below for informational purposes.

House Bill 3516, Section 19 (Act No. 40)

Manufacturing Property – New Partial Exemption

Code Section 12-37-220(B)(52) has been added to exempt from ad valorem property taxes 14.2857% of the property tax value of manufacturing property assessed for property tax purposes pursuant to Code Section 12-43-220(a)(1), both real and personal. If the exemption is applied to real property, then it must be applied to the property tax value as it may be adjusted downward to reflect the 15% cap on value provided in Section 6, Article X of the South Carolina Constitution.

The exemption amount is phased in over six equal and cumulative percentage installments, as follows:

Property Tax Year Beginning In	Exemption Amount
2018	2.38095%
2019	4.7619%
2020	7.14285%
2021	9.5238%
2022	11.90475%
2023 and thereafter	14.2857%

The revenue loss resulting from the exemption must be reimbursed and allocated to the political subdivisions of South Carolina, including school districts, in the same manner as the Trust Fund for Tax Relief, not to exceed \$85 million per year. For any year in which the reimbursements are projected by the Revenue and Fiscal Affairs Office to exceed the reimbursement cap, the exemption amount shall be proportionately reduced so as not to exceed the reimbursement cap. Property exempted from property taxes in the manner provided in Code Section 12-37-220(B)(52), as discussed above, is considered taxable property for purposes of bonded indebtedness pursuant to Section 15, Article X of the South Carolina Constitution.

Effective Date: Property tax years beginning after 2017

House Bill 3247, Sections 1 and 10 (Act No. 89)

Mopeds – Exemption from Property Taxes

Title 56, Chapter 2 has been amended to add Article 3, “Mopeds,” concerning the titling, registration, and licensing of mopeds. Code Section 56-2-3010(D) exempts mopeds from ad valorem property taxes.

Code Section 56-1-10(26) defines a “moped” as follows:

A “moped” means a cycle, defined as a motor vehicle, with or without pedals, to permit propulsion by human power, that travels on not more than three wheels in contact with the ground whether powered by gasoline, electricity, alternative fuel, or a hybrid combination thereof. Based on the engine or fuel source, the moped must be equipped not to exceed the following limitations: a motor of fifty cubic centimeters; or designed to have an input exceeding 750 watts and no more than 1500 watts. If an internal combustion engine is used, the moped must have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

Effective Date: November 19, 2018

SALES AND USE TAXES

House Bill 4009 (Act No. 257)

Motorsports Entertainment Complex Investment Act – New Exemption

Chapter 69, the “Motorsports Entertainment Complex Investment Act,” has been added to Title 12 to provide an exemption from state and local sales tax for the construction, repair, or improvement of a motorsports entertainment complex.

For purposes of this exemption, “motorsports entertainment complex” has the same meaning as the term has in Code Section 12-21-2425 and is defined as a motorsports facility and its ancillary grounds and facilities that:

1. Is a NASCAR-sanctioned motor speedway or racetrack that hosted at least one NASCAR Sprint Cup Series race in 2012, and continues to host at least one NASCAR Sprint Cup Series race, or any successor race featuring the same NASCAR Cup series;
2. Has at least three scheduled days of motorsports events, and events ancillary and incidental thereto, each calendar year that are sanctioned by a nationally or internationally recognized governing body of motorsports that establishes an annual schedule of motorsports events; and
3. Engages in tourism promotion.

Upon applying to the Department, any corporation, partnership, limited liability company, or other business entity meeting the requirements of Chapter 69 may become a qualified company eligible for the sales tax exemption. The required application must be accompanied by a practical plan to make a capital investment of at least \$10 million on any motorsports entertainment complex in South Carolina within the five-year period immediately following the approval of the application.

Upon approval of the application, the Department shall issue a sales and use tax exemption certificate. The company will then be exempt from state and local sales and use taxes on building materials, supplies, fixtures, and equipment for the construction, repair, or improvement of or that become a part of a motorsports entertainment complex.

The company’s exemption certificate is effective upon receipt and remains in effect until December 31st of the fifth full calendar year after its issuance. Once the certificate is ineffective, the company must return the certificate to the Department and submit a report to the Department of the actual expenditures made in South Carolina in connection with the investment. The company must designate a member or representative of the company to work with the Department on reporting of the investment.

If a company fails to meet the \$10 million capital investment requirement within the five-year period, the company will be liable for the sales and use taxes that would have been paid without the exemption certificate, in the same proportion as the actual capital investment failed to meet the required capital investment. The sales and use taxes are considered due as of the date the tangible personal property was purchased in or brought into South Carolina for use, storage, or consumption. The company must be given 60 days to pay the sales and use taxes without incurring penalties.

Effective Date: Tax years beginning after 2017

House Bill 4950, Part IB, Section 50, Proviso 50.20 (Act No. 264)

Navy Base Intermodal Facility – Distribution Facility Eligibility

This temporary proviso provides that the Navy Base Intermodal Facility owned by Palmetto Railways, a division of the Department of Commerce, shall be considered a distribution facility for the purpose of sales tax exemptions associated with the purchase of equipment and construction materials. Note: Sales tax exemptions implicated by this proviso include Code Section 12-36-2120(51) and (67).

Effective Date: This temporary proviso is effective for State fiscal year July 1, 2018 through June 30, 2019. It will expire June 30, 2019, unless reenacted by the General Assembly in the next legislative session.

SALES AND USE TAX REGULATION

Document No. 4665 – SC Regulation 117-307.1

Charges Imposed by Hotels, Motels, and Other Facilities – Amended Regulation

SC Regulation 117-307.1, concerning the application of tax to various charges imposed by hotels, motels, and other facilities, has been updated to conform to legislative changes enacted in Act No. 172 of 2014. Effective July 1, 2014, the Act amended Code Section 12-36-920(A) to provide that separately stated optional charges on a bill to a customer for amenities, entertainment, special items in promotional tourist packages, and other guest services are exempt from the 7% sales tax on accommodations. The Act also amended Code Section 12-36-920(B) to limit the 6% sales tax on “additional guest charges” to room service, laundering and dry cleaning services, in-room movies, telephone service, and rentals of meeting rooms. In addition to addressing the legislative changes, the updated regulation includes new questions and answers concerning pet fees, smoking fees, damage fees, late checkout fees, and fees for using a safe in the room.

Effective Date: February 23, 2018

REENACTED TEMPORARY PROVISOS

The following temporary provisos were enacted in prior legislative sessions and were reenacted by the General Assembly in 2018. Temporary provisos are effective for the State fiscal year July 1, 2018 through June 30, 2019, and will expire June 30, 2019, unless reenacted by the General Assembly in the next legislative session.

House Bill 4950, Part IB, Section 117, Proviso 117.61 (Act No. 264)

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 4950, Part IB, Section 117, Proviso 117.57 (Act No. 264)

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 4950, Part IB, Section 117, Proviso 117.37 (Act No. 264)

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. 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. 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.

House Bill 4950, Part IB, Section 117, Proviso 117.133 (Act No. 264)

State Ports Authority – Distribution Facility Eligibility

This temporary proviso provides that the State Ports Authority shall be considered a distribution facility for the purpose of sales tax exemptions associated with the purchase of equipment and construction materials. Note: Sales tax exemptions implicated by this proviso include Code Section 12-36-2120(51) and (67).

MISCELLANEOUS

(Summarized by Subject Matter)

ADMINISTRATIVE and PROCEDURAL MATTERS

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

Revenue Procedures Act – Definitions, Appeals Procedures, and Refunds

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

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

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

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

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

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

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

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

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

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

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

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

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

Effective Date: October 3, 2018

OTHER ITEMS (Including Local Taxes)

Senate Bill 1038 (Act No. 155)

Capital Projects Sales and Use Tax – Extension for Certain Reimpositions

Article 3, Chapter 10 of Title 4 authorizes a county to impose or reimpose a capital projects sales and use tax for one or more specific purposes within the county. Code Section 4-10-390 has been added to address the imposition and termination dates for any county that began reimposing a capital projects sales and use tax on April 1, 2013 and then voted to reimpose the tax in the 2016 General Election. This new code section (1) extends the tax reimposed beginning April 1, 2013 until April 30, 2020; (2) postpones the start date for the reimposed tax authorized in the 2016 General Election until May 1, 2020; and (3) provides that the tax reimposed beginning May 1, 2020 expires on April 30, 2027.

Effective Date: April 17, 2018

House Bill 4272 (Act No. 278)

Lexington County School District Sales and Use Tax – Extension

In the 2004 General Election, the qualified electors residing in Lexington County approved a referendum imposing a 1% sales and use tax within Lexington County. The tax was originally authorized under Act No. 378 of 2004, the Lexington County School District Property Tax Relief Act (the Act), and became effective on March 1, 2005. Section 3(A) of the Act provides that the tax is imposed for seven years, but it may be reimposed or extended by the General Assembly. Act No. 88 of 2011 extended the tax for an additional seven years beginning March 1, 2012, the day after the original seven-year period expired. House Bill 4272 extends the tax for an additional seven years beginning March 1, 2019, the day after the second seven-year period expires.

The tax is administered and collected by the Department in the same manner that other sales and use taxes are collected. It is in addition to all other local sales and use taxes and applies to the gross proceeds of sales in Lexington County that are subject to the tax imposed by Chapter 36, Title 12, and the collection and enforcement provisions of Chapter 54, Title 12. The gross proceeds of the sale of unprepared food that may lawfully be purchased with food stamps and items subject to a maximum tax are exempt from this tax.

Effective Date: March 12, 2018

Senate Bill 67 (Act No. 180)

Redevelopment Fees – Amended

The South Carolina Federal Defense Facilities Redevelopment Law (Chapter 12, Title 31) establishes redevelopment authorities, organized for remedying the detrimental effects of closed, realigned, or drastically downsized federal military installations and other federal sites. Code Section 12-10-88 provides for the Department to remit income tax withholding of employees, employed by a federal employer located at one of these sites, to an applicable redevelopment authority to provide funds for the revitalization of these sites.

The changes made to Code Section 12-10-88 include:

1. The term “closed or realigned military installation” is changed to “closed or realigned federal installation.”
2. Subsection (E) now defines “closed or realigned federal installation” to mean:

Until January 1, 2028, a federal defense site in which permanent employment was reduced by 3,000 or more jobs from the level of such jobs on December 31, 1990, or a federal military base or installation which has been closed or realigned under (a) the Defense Base Closure and Realignment Act of 1990; (b) Title 11 of the Defense Authorization Amendments and Base Closure and Realignment Act; or (c) Section 2687 of Title 10 of the United States Code.
3. Subsection (C) has been amended to provide, in part, that redevelopment fees may be remitted to the applicable redevelopment authority for any quarter beginning on or after the date that the applicable redevelopment authority first submits the required information to the Department. Previously this section provided that redevelopment fees may be remitted to the applicable redevelopment authority for a period beginning with the date that the applicable redevelopment authority first submits the required information to the Department and ending fifteen years later or January 1, 2021, whichever occurs last.

Effective Date: May 17, 2018

REGULATORY

House Bill 4729, Sections 2 and 6 (Act No. 147)

Maximum Retail Dealer Liquor Licenses Issued to One Licensee – New Code Section

Code Section 61-6-141, pertaining to the number of retail dealer licenses that the Department may issue to one licensee, has been added. This code section replaces the provisions of Code Section 61-6-140, which was repealed effective April 5, 2018, by Act No. 62, Section 4, of 2017. In addition, Section 6 of this Act (an uncodified provision) sets forth an incremental increase schedule for the maximum alcohol retail dealer licenses issued to licensee.

Code Section 61-6-141 limits a licensee to a total of three retail dealer licenses, except as follows:

- Persons having an interest in retail liquor stores as of July 1, 1978 are not subject to the three-license limitation.
- A licensee may be issued up to an additional three retail dealer licenses pursuant to Code Section 61-6-141(3) for retail locations in counties with populations in excess of 250,000 residents. Licensees issued a retail dealer license pursuant to Code Section 61-6-141(3)(a) may not operate more than two stores in a county with a population in excess of 250,000 residents. A licensee who operates three retail dealer licensed stores as of March 21, 2018 within a county with a population in excess of 250,000 residents may be issued two additional retail dealer licenses under Code Section 61-6-141(3)(a) to operate in that county.

Until May 31, 2018, the Department shall not issue more than three retail dealer licenses to one licensee.

- Beginning June 1, 2018, no more than four retail dealer licenses may be issued to one licensee.
- Beginning June 1, 2020, no more than five retail dealer licenses may be issued to one licensee.
- Beginning June 1, 2022, no more than six retail dealer licenses may be issued to one licensee.

The three-license limit does not apply to a person having an interest in retail liquor stores as of July 1, 1978. Additional retail dealer licenses may be issued to that person in accordance with the schedule above.

To hold one or more licenses, a licensee must be eligible for each license for each store pursuant to Code Section 61-6-110.

Effective Date: April 4, 2018

House Bill 4729, Section 3 (Act No. 147)

Prohibition on Interests in Retail Liquor Stores – New Code Section

Code Section 61-6-151 has been added to prohibit any person, directly or indirectly, individually or as a member of a partnership or an association, as a member or stockholder of a corporation, or as a relative to a person by blood or marriage within the second degree, from having any interest whatsoever in a licensed retail liquor store licensed under this section except the six stores covered by his retail dealer's licenses, pursuant to Code Section 61-6-141.

This code section replaces the provisions of Code Section 61-6-150, which was repealed effective April 5, 2018, by Act No. 62, Section 4, of 2017.

Effective Date: April 4, 2018

House Bill 3549 (Act No. 252)

Locations Seeking License to Sell Liquor for On-Premises Consumption – Consent in Case of Proximity to Church, School, or Playground

Code Section 61-6-120, which bars new liquor licenses when the place of business is within 300 feet of any church, school, or playground situated within a municipality, or 500 feet if situated outside a municipality, has been amended.

Subsection (C) continues to allow a license to sell liquor for on-premises consumption to be issued for a business within the distance parameters of a church or playground if the applicant provides a statement from each church and playground stating that it does not object to the issuance of the license. This subsection has been expanded to provide that schools, in addition to churches and playgrounds, may affirmatively state that they do not object to the issuance of a license to sell liquor for on-premises consumption within the distance parameters.

A statement must now be provided from the local school district board of trustees of each local public school, governing board of each charter school, and governing authority of each private school located within the distance parameters. For churches and playgrounds, the license applicant must provide the necessary statements from the decision-making body of each church and the decision-making body of the owner of each playground within the distance parameters.

In addition, subsection (C) now provides that at the time of any renewal period for the specific license, a school may withdraw its statement declaring that it does not object to the issuance of the specific license sought by notifying the Department of its withdrawal.

Effective Date: May 25, 2018

House Bill 4729, Section 4 (Act No. 147)

“New Alcoholic Liquor” Sales for On-Premises Consumption

Code Section 61-6-1636 concerns the purchase of liquor from a licensed retail dealer by a person licensed to sell liquor by the drink for on-premises consumption. The statute has been amended to provide an exception to the requirement that persons selling liquor for on-premises consumption purchase alcoholic liquor from licensed retail dealers.

Subsection (C) now provides that licensed wholesalers may deliver “new alcoholic liquor,” defined as alcoholic liquor not previously sold in South Carolina, for on-premises consumption if the following conditions are met:

1. The alcoholic liquor is in sealed containers in any sized bottle, except 1.75 liter bottles, and
2. The delivery occurs within 180 days from the date of the first bill of lading in South Carolina for that new alcoholic liquor.

Within 10 days of receipt of the first bill of lading, the licensed wholesaler must provide a copy of the bill of lading to the Department in the manner described by the Department.

Effective Date: April 4, 2018

Senate Bill 820 (Act No. 193)

Referendum Questions for Temporary Alcohol Licenses and Beer and Wine Permits

Under Code Section 61-6-2010(C), counties and municipalities may conduct a referendum to authorize the Department to issue certain temporary alcohol licenses and beer and wine permits. This section has been amended and now only allows counties and municipalities to place one or both of the following questions on the ballot:

1. “Shall the South Carolina Department of Revenue be authorized to issue temporary permits in this (county) (municipality) for a period not to exceed twenty-four hours to allow the possession, sale, and consumption of alcoholic liquors by the drink to bona fide nonprofit organizations and business establishments otherwise authorized to be licensed for consumption-on-premises sales?”
2. “Shall the Department of Revenue be authorized to issue temporary permits in this (county) (municipality) for a period not to exceed twenty-four hours to allow the sale of beer and wine at permitted off-premises locations without regard to the days or hours of sales?”

Previously, counties and municipalities could place only one of three specific questions on the ballot.

In addition, Code Section 61-6-2010(C)(2), which formerly read, “A referendum for this purpose may not be held more often than once in forty-eight months,” has been amended to provide that “[o]n or after June 21, 1993, a question authorized by this subsection may not appear on the ballot for a county or municipality less than forty-eight months following the failure of a question authorized by this subsection in said county or municipality.”

Effective Date: May 17, 2018

**Soccer Complex – New Licensing Provisions for Beer and Wine and for Alcoholic Liquors
Baseball Complex – Definition Amended**

Code Sections 61-4-515 and 61-6-2016 allow the Department to issue a biennial beer and wine permit and a biennial alcoholic liquor by the drink license to the owner, or his designee, of a motorsports entertainment complex, tennis specific complex, or baseball complex located in South Carolina. The permit and license authorize the purchase from licensed wholesalers and sale for on-premises consumption of beer and wine and alcoholic liquor by the drink at any occasion held on the complex grounds, year round on any day of the week.

Code Sections 61-4-515 and 61-6-2016 were amended to include soccer complexes as one of the facilities for which the owner or designee may apply for the biennial permit and license and to revise the definition of a baseball complex. The nonrefundable filing fees and the fees for the biennial permit and license are the same as for other biennial permits and licenses for on-premises consumption of beer and wine and alcoholic liquor by the drink, respectively.

The Department may issue these permits and licenses whether or not the complex on behalf of which an application is submitted is located in a county or municipality that has successfully held a referendum pursuant to Code Section 61-6-2010 allowing the possession, sale, and consumption of beer or wine or alcoholic liquors by the drink for a period not to exceed 24 hours. The Department in its discretion may specify the terms and conditions of the permit, pursuant to the provisions of Chapter 4, Title 61, and other applicable provisions under Title 61.

The owner or designee of the soccer complex may designate particular areas within the complex where patrons of events who have paid an admission price to attend, or guests who are attending private functions at the complex, whether or not a charge for attendance is made, may possess and consume beer and wine, and alcoholic liquors by the drink, provided at their own expense or at the expense of the sponsor of the private function.

A “soccer complex” is defined as a soccer facility, along with its ancillary grounds and facilities, that hosts a professional league soccer team.

A “baseball complex” is now defined as a baseball stadium, and its ancillary grounds and facilities, that hosts a professional league baseball team. Previously, this definition only included professional minor league baseball teams.

Effective Date: May 17, 2018

Senate Bill 812, Section 3 (Act No. 192)

Participation in Bingo Games by Volunteers – New Code Section

Code Section 12-21-3925 has been added to provide that a volunteer who assists a house in operating bingo games is not an agent, promoter, or representative of the house and may participate in a bingo game at the house in which he volunteers except on days he has volunteered.

Effective Date: May 15, 2018

REENACTED TEMPORARY PROVISOS

The following temporary provisos were enacted in prior legislative sessions and were reenacted by the General Assembly in 2018. Temporary provisos are effective for the State fiscal year July 1, 2018 through June 30, 2019, and will expire June 30, 2019, unless reenacted by the General Assembly in the next legislative session.

ADMINISTRATIVE and PROCEDURAL MATTERS

House Bill 4950, Part IB, Sections 93 and 117, Provisos 93.7 and 117.86 (Act No. 264)

3% Reduction on Interest Rate on Tax Refunds

The interest rate for tax refunds paid is reduced by 3% as follows:

- Temporary Proviso 93.7 decreases by 2% the interest rate for tax refunds paid during the current fiscal year. The revenue resulting from this 2% reduction must be used for operations of the State's Guardian ad Litem Program.
- Temporary Proviso 117.86 decreases by 1% the interest rate for tax refunds paid during the current fiscal year. 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.

House Bill 4950, Part IB, Section 109, Proviso 109.6 (Act No. 264)

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 TAXES

House Bill 4950, Part IB, Section 1, Proviso 1.15 (Act No. 264)

Local Government School Buses – Motor Fuel User Fee 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 user fee.

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

House Bill 4950, Part IB, Section 33, Proviso 33.10 (Act No. 264)

Nursing Home Bed Franchise Fee – Suspension

This temporary proviso continues to suspend the nursing home bed franchise fee imposed on February 1, 2002, but subsequently suspended July 1, 2002.

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.

REMINDERS

The following provisions were enacted prior to 2018 but are being phased in or are effective in 2018 and thereafter. The provisions are summarized below for informational purposes.

MISCELLANEOUS TAXES

House Bill 3516, Section 2 (Act No. 40)

Motor Fuel User Fee – Rate Change

Code Section 12-28-310(A) imposes a user fee of sixteen cents per gallon on:

1. All gasoline, gasohol, or blended fuels containing gasoline that are used or consumed for any purpose in South Carolina; and
2. All diesel fuel, substitute fuels, or alternative fuels, or blended fuels containing diesel fuel that are used or consumed in South Carolina in producing or generating power for propelling motor vehicles.

Code Section 12-28-310(D) has been added to provide for a user fee increase by two cents a gallon each year for six years as follows:

Date of Rate Change	New User Fee Rate Per Gallon
July 1, 2017	18 cents
July 1, 2018	20 cents
July 1, 2019	22 cents
July 1, 2020	24 cents
July 1, 2021	26 cents
July 1, 2022	28 cents

Note: The inspection fee imposed under Code Section 12-28-2355(A) at the rate of one-quarter cent per gallon, and the environmental impact fee imposed under Code Section 12-28-2355(B) at the rate of one-half cent per gallon, remain unchanged.

Effective Date: July 1, 2017

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.

For additional information, see SC Regulation 117-1600, which is applicable to the new cigarette stamp tax process.

Effective Date: January 1, 2019

OTHER ITEMS

House Bill 3516, Section 8 (Act No. 40)

New Motor Carrier Road Use Fee – Administered by the South Carolina Department of Motor Vehicles

In 2017, the General Assembly enacted the South Carolina Infrastructure and Economic Development Reform Act (Act No. 40) to address the needs of South Carolina's transportation infrastructure system. Article 23, Chapter 37, Title 12, concerning property taxation of motor

carriers, has been amended to impose a new motor carrier road use fee on a motor carrier's large commercial motor vehicles and buses. The South Carolina Department of Motor Vehicles will assess and administer the road use fee.

Previously, the South Carolina Department of Revenue assessed and administered an ad valorem property tax on a motor carrier's large commercial motor vehicles and buses. The amendments to Article 23 no longer subject large commercial motor vehicles and buses of a motor carrier to ad valorem property taxes. These vehicles are now subject to a road use fee. Small commercial motor vehicles are not subject to the road use fee and must be licensed and registered, and are subject to ad valorem taxes as otherwise provided by law. Code Section 12-37-2815.

Questions concerning these provisions should be directed to the South Carolina Department of Motor Vehicles.

Effective Date: January 1, 2019

House Bill 3516, Section 3 (Act No. 40)

Motor Carrier Road Tax – Rate Change

Code Section 56-11-410 imposes a road tax on every motor carrier for the privilege of using the streets and highways of South Carolina. The road tax is calculated on the amount of gasoline or other motor fuel used by the motor carrier in its operations in South Carolina, provided the motor carrier is allowed a credit against the road tax for the South Carolina motor fuel user fee imposed by Code Section 12-28-310 and paid by the carrier for operations within and without South Carolina.

Prior to July 1, 2017, the road tax was sixteen cents per gallon. Code Section 56-11-410(A) was amended so that the road tax is imposed at the same rate as the motor fuel user fee imposed by Code Section 12-28-310. Therefore, the road tax will increase two cents a gallon each year for six years as follows:

Date of Rate Change	New Road Tax Rate Per Gallon
July 1, 2017	18 cents
July 1, 2018	20 cents
July 1, 2019	22 cents
July 1, 2020	24 cents
July 1, 2021	26 cents
July 1, 2022	28 cents

Effective Date: July 1, 2017

House Bill 3516, Section 8 (Act No. 40)

Motor Carrier Business License Fee or Tax Imposed by Municipality or County

Code Section 58-23-620(B) has been added to provide that if a municipality or county imposes a business license fee or tax pursuant to Code Section 58-23-620(A) on any certificate holder or a common or contract motor carrier of property which operates its vehicles both within and without South Carolina, the fee or tax must be apportioned in the ratio that the miles traveled by the vehicles operated by the certificate holder in South Carolina bears to miles traveled by those vehicles in all states.

Effective Date: January 1, 2019

LIST OF TEMPORARY PROVISOS

Temporary provisos were enacted as part of the 2018 annual budget - House Bill 4950, Part IB (Act No. 264). They are effective only for the current State fiscal year (July 1, 2018 – June 30, 2019). They expire on June 30, 2019, 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

Property Taxes

Proviso 109.12 Notification of Protest to Affected Counties and School Districts

Sales and Use Taxes

Proviso 50.20 Navy Base Intermodal Facility – Distribution Facility Eligibility

REENACTED PROVISOS

Income Taxes

Proviso 1A.9 Teaching Supplies and Materials – Reimbursement Amount Not Taxable or Refundable Income Tax Credit

Proviso 1A.10 Teacher of the Year Awards – Not Subject to South Carolina Income Tax

Proviso 117.124 Retail Facilities Revitalization Act – Repeal of Act Suspended

Proviso 118.10 Consumer Protection Services – Individual Income Tax Deduction

Property Taxes

Proviso 1.48 Index of Taxpaying Ability – Imputed Value for Owner-Occupied Residential Property

Proviso 113.8 Agricultural Use Exemption for Timberland – Impact of Additional County Requirements

Proviso 117.38 Personal Property Tax Relief Fund

Proviso 117.124 Retail Facilities Revitalization Act – Repeal of Act Suspended

Proviso 117.134 Improvements to Property Damaged by Catastrophic Weather Event

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
- Proviso 117.133 State Ports Authority – Distribution Facility Eligibility

Miscellaneous (Administrative, Miscellaneous Taxes, Other, and Regulatory)

Administrative & Procedural:

- Provisos 93.7 3% Reduction on Interest Rate on Tax Refunds
and 117.86
- Proviso 109.6 Voluntary Website Posting of Tax Return Information for Candidates and
Gubernatorial Appointees

Miscellaneous Taxes:

- Proviso 1.15 Local Government School Buses – Motor Fuel User Fee Exemption
- Proviso 33.10 Nursing Home Bed Franchise Fee – Suspension
- Proviso 118.7 Admissions Tax Rebate – Motorsports, Tennis, and Soccer Facilities

A complete copy of this legislation can be obtained from the South Carolina Legislature's website at scstatehouse.gov.