



Tax Legislative Update for 2022

SOUTH CAROLINA DEPARTMENT OF REVENUE

POLICY DIVISION

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TAX LEGISLATIVE UPDATE FOR 2022

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

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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.

Note Regarding Act No. 236: A petition has been filed with the South Carolina Supreme Court to review the constitutionality of the retroactive application of Act No. 236, Section 2.E. relating to the application of the Act to any “service or user fee” in Section 2 imposed by a local governing body after December 31, 1996. Act No. 236, Sections 1 and 3, contain property tax provisions. The Department plans to provide updates of any property tax legislation in Act No. 236 summarized below that is affected in a final court decision regarding Act No. 236.

TEXT OF LEGISLATION:

A complete copy of the legislation discussed 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 laws (both permanent and temporary) enacted during the 2022 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, 2023.

Also included are reminders of provisions which were enacted in a prior year but are being phased in or are effective in 2022 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
76, Sec. 1	138 of 2020	Energy Efficient Manufactured Home – Credit Extended – Reminder
314	45 of 2019	Service as Preceptor for Clinical Rotations – New Credit and New Deduction – Reminder
635, Sec. 4	172	Industry Partnership Fund Credit – Credit Amounts Amended
901, Secs. 1, 2, and 7	237	Solar Energy Property Credit – Amendments and New Credit Repeal Date
901, Sec. 5	237	Registered Apprenticeship Credit for Hiring Veterans of the Armed Forces – New Credit
901, Sec. 5	237	Registered Apprenticeship Credit for Hiring Formerly Incarcerated Individuals – New Credit
901, Sec. 6	237	Job Development and Job Retraining Credits Qualification – New “Related Person” Provision
1087, Secs. 1 and 2	228	Individual, Estate, and Trust Income Tax – Top Marginal Rate Reduction Phase-Down Beginning Tax Year 2022
1087, Secs. 1 and 2	228	Individual, Estate, and Trust Income Tax Brackets – Brackets Collapsed to Three for Tax Years Beginning After 2021
1087, Sec. 4	228	2.5% Marginal Tax Rate Reduction in 2007 – To be Repealed
1087, Sec. 6	228	One-Time Individual Income Tax Refund (Rebate) in 2022 – Based on Tax Year 2021 SC 1040 Income Tax Liability
3247	156	Military Retirement Income Deduction – Expanded to Full Deduction at Any Age Military Retirement Earned Income Deduction – Repealed
3340	184	License Fee (Tax) Credit for Infrastructure – Amendments

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

BILL #	ACT #	SUBJECT
3516, Sec. 15	40 of 2017	Motor Fuel User Fee Credit – New Refundable Credit – Reminder
3516, Sec. 16	40 of 2017	South Carolina Earned Income Credit – New Credit – Reminder
3516, Sec. 17	40 of 2017	Two-Wage Earner Credit – Credit Increased – Reminder
5057, Sec. 1	201	Internal Revenue Code Conformity (Including the American Rescue Plan Act of 2021 and Infrastructure Investment and Jobs Act of 2021)
5057, Sec. 2	201	Economic Injury Disaster Loans and Restaurant Revitalization Grants in Federal American Rescue Plan Act of 2021 – SC Tax Treatment
5075, Secs. 1.A. and 1.C.	202	Low Income Housing Credit – Amendments
5150, Part IB, Sec. 1A, Proviso 1A.9	239	Teaching Supplies and Materials – Revised Reimbursement Amount; Reimbursement Amount Not Taxable or Refundable Income Tax Credit – Reenacted and Revised Temporary Proviso
5150, Part IB, Sec. 1A, Proviso 1A.10	239	Teacher of the Year Awards – Not Subject to South Carolina Income Tax – Reenacted Temporary Proviso
5150, Part IB, Sec. 63, Proviso 63.10	239	Governor’s Law Enforcement Officer of the Year Awards – Not Subject to South Carolina Income Tax – New Temporary Proviso
5150, Part IB, Sec. 109, Proviso 109.13	239	Renewable Fuel Credit – Placed in Service Date Extended – Reenacted Temporary Proviso
5150, Part IB, Sec. 117, Proviso 117.114	239	Retail Facilities Revitalization Act – Repeal of Act Suspended – Reenacted Temporary Proviso
5150, Part IB, Sec. 117, Proviso 117.170	239	Credit for Rehabilitation of Certified Historic Structure – Waiver of Fee during Fiscal Year 2022 – 2023 – New Temporary Proviso
5150, Part IB, Sec. 118, Proviso 118.10	239	Consumer Protection Services – Individual Income Tax Deduction – Reenacted Temporary Proviso

PROPERTY TAXES

BILL #	ACT #	SUBJECT
233, Sec. 1	236	Property Tax Exemption for Disabled Veterans, Police Officers and Firefighters – Amendments Relating to “Heirs’ Property” and “Qualified Surviving Spouses”
233, Sec. 3.A.	236	Property Valuation Adjustment for Flooding, Hurricane, or Wind Event
233, Sec. 3.B.	236	Certain Farm Buildings and Agricultural Structures – Now Exempt
648, Sec. 5	106 of 2021	Consolidation of Clarendon County School Districts 2 and 4 – Millage – Reminder
1087, Sec. 5	228	Manufacturing Property – Increase in Partial Exemption
5150, Part IB, Sec. 1, Proviso 1.46	239	Index of Taxpaying Ability – Imputed Value for Owner-Occupied Residential Property – Reenacted Temporary Proviso
5150, Part IB, Sec. 92D, Proviso 92D.1	239	Improvements to Property Damaged by Catastrophic Weather Event – Time for Improvements for Eligible Events – Reenacted Temporary Proviso
5150, Part IB, Sec. 109, Proviso 109.11	239	Notification of Protest to Affected County and School District – Reenacted Temporary Proviso
5150, Part IB, Sec. 113, Proviso 113.7	239	Agricultural Use Exemption for Timberland – Impact of Additional County Requirements – Reenacted Temporary Proviso
5150, Part IB, Sec. 117, Proviso 117.37	239	Personal Property Tax Relief Fund – Reenacted Temporary Proviso
5150, Part IB, Sec. 117, Proviso 117.114	239	Retail Facilities Revitalization Act – Repeal of Act Suspended – Reenacted Temporary Proviso
5144	203	Rural Telephone Exemption – Amended

SALES and USE TAXES

BILL #	ACT #	SUBJECT
152	166	County Green Space Sales Tax Act – New Local Sales and Use Tax
901, Sec. 3	237	Filing Requirement for Multi-Location Returns – Sales Tax on Accommodations
901, Sec. 4	237	Watercraft Motor Sales – Maximum Tax Now Applies
3948	189	Capital Projects and Local Transportation Sales and Use Taxes – Limitations on Taxes Imposed in a County – Amended
5150, Part IB, Sec. 44, Proviso 44.10	239	South Carolina Agriculture Tax Exemption Card (SCATE Card) – Fee Authorized for Card – New Temporary Proviso

SALES and USE TAXES (CONTINUED)

BILL #	ACT #	SUBJECT
5150, Part IB, Sec. 50, Proviso 50.20	239	Navy Base Intermodal Facility – Distribution Facility Eligibility – Reenacted Temporary Proviso
5150, Part IB, Sec. 109, Proviso 109.12	239	Clothing Used in Perishable Prepared Food Manufacturing Facilities – Reenacted Temporary Proviso
5150, Part IB, Sec. 117, Proviso 117.36	239	Private Schools – Use Tax Exemption – Reenacted Temporary Proviso
5150, Part IB, Sec. 117, Proviso 117.54	239	Respiratory Syncytial Virus Medicines Exemption – Effective Date – Reenacted Temporary Proviso
5150, Part IB, Sec. 117, Proviso 117.58	239	Viscosupplementation Therapies – Sales and Use Tax Suspended – Reenacted Temporary Proviso
5150, Part IB, Sec. 117, Proviso 117.146	239	Agribusiness Facilities – Material Handling and Construction Material Exemptions – Reenacted Temporary Proviso

MISCELLANEOUS

BILL #	ACT #	SUBCATEGORY	SUBJECT
		Administrative and Procedural	
5150, Part IB, Secs. 41 and 117, Provisos 41.2 and 117.82	239		3% Reduction on Interest Rate on Tax Refunds – Reenacted Temporary Proviso
5150, Part IB, Sec. 109, Proviso 109.6	239		Voluntary Website Posting of Tax Return Information for Candidates and Gubernatorial Appointees – Reenacted Temporary Proviso
5150, Part IB, Sec. 109, Proviso 109.14	239		Certain License or Permit Applications – New Electronic Filing Option under Penalties of Perjury – Reenacted Temporary Proviso
5150, Part IB, Sec. 109, Proviso 109.15	239		Advance Referendum Notification by Election Commission to SCDOR – Reenacted Temporary Proviso
		Miscellaneous Taxes	
3516, Sec. 2	40 of 2017		Motor Fuel User Fee – Rate Change – Reminder
4161	190		Machines and Devices Prohibited by Law – Exception Added
5150, Part IB, Sec. 1, Proviso 1.14	239		Local Government School Buses – Motor Fuel User Fee Exemption – Reenacted Temporary Proviso

MISCELLANEOUS (CONTINUED)

BILL #	ACT #	SUBCATEGORY	SUBJECT
5150, Part IB, Sec. 33, Proviso 33.10	239		Nursing Home Bed Franchise Fee – Suspension – Reenacted Temporary Proviso
5150, Part IB, Sec. 118, Proviso 118.7	239		Admissions Tax Rebate – Motorsports, Tennis, and Soccer Facilities – Reenacted Temporary Proviso
		Other Items	
3516, Sec. 3	40 of 2017		Motor Carrier Road Tax – Rate Change – Reminder
4431	176 of 2020		South Carolina Business License Tax Standardization Act – New – Reminder

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

House Bill 5057, Section 1 (Act No. 201)

Internal Revenue Code Conformity (Including the American Rescue Plan Act of 2021 and Infrastructure Investment and Jobs Act of 2021)

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 through December 31, 2021, and includes the effective date provisions contained therein.

Extension of Federal Expiring Provisions. Code Section 12-6-40(A)(1)(c) provides that if during 2022 the federal government extends, without otherwise amending, Internal Revenue Code provisions that expired on December 31, 2021, then these sections or portions of sections which have been adopted by South Carolina will be extended in the same manner that they are for federal income tax purposes.

Effective Date: May 16, 2022

House Bill 5057, Section 2 (Act No. 201)

Economic Injury Disaster Loans and Restaurant Revitalization Grants in Federal American Rescue Plan Act of 2021 – SC Tax Treatment

For tax year 2021, the Federal American Rescue Plan Act of 2021, Public Law 117-2 (enacted March 11, 2021) in Section 9672 excluded from federal gross income “targeted economic injury disaster loan advances” received from the Small Business Administration, and in Section 9673 excluded from federal gross income “restaurant revitalization grants” received from the Small Business Administration. In an uncodified provision, Act No. 201 provides that for tax year 2021, these loan advances and revitalization grants are excluded for South Carolina income tax purposes to the extent they are excluded from gross income for federal income tax purposes.

Effective Date: May 16, 2022

Senate Bill 1087, Sections 1 and 2 (Act No. 228)

Individual, Estate, and Trust Income Tax – Top Marginal Rate Reduction Phase-Down Beginning Tax Year 2022

The “Comprehensive Tax Cut Act of 2022,” provides that South Carolina’s top marginal tax rate in Code Section 12-6-510, applicable to individuals, estates, trusts, and any other entity except entities otherwise taxed or exempted from tax in Code Sections 12-6-530 through 12-6-550 (e.g., corporations, electing small business trusts, banks, insurance companies, and other tax exempt organizations, such as organizations under Internal Revenue Code Sections 501 through 528), will be lowered from 7% to 6% over a minimum of six years.

New Code Section 12-6-510(B) provides that the top marginal rate will be 6.5% beginning in tax year 2022. This 6.5% marginal rate will then decrease by one-tenth of one percent each tax year thereafter until the top marginal tax rate is 6%, provided certain revenue conditions in Code Section 12-6-510(B)(3) are met.

The chart below illustrates the new top marginal tax rate during the phase-down period for tax year 2022 and the top marginal tax rates for 2023 through 2027, if the revenue requirements are met each of those years. Note: All reductions are permanent and cumulative.

Tax Year	Top Marginal Tax Rate Phase-down
2022	6.5% - Permanent reduction
2023*	6.4%*
2024*	6.3%*
2025*	6.2%*
2026*	6.1%*
2027*	6.0%*

*The new 6.5% tax rate phase-down for tax year 2022 will be reduced one-tenth of one percent in each tax year beginning in 2023 if general fund revenues are projected by the Revenue and Fiscal Affairs Office to increase by at least 5% in the fiscal year that begins during the tax year. The forecast in effect on February 15th of the current fiscal year is the final forecast to determine the percentage adjustment.

Effective Date: June 17, 2022, and first applies to tax years beginning after 2021.

Senate Bill 1087, Sections 1 and 2 (Act No. 228)

Individual, Estate, and Trust Income Tax Brackets – Brackets Collapsed to Three for Tax Years Beginning After 2021

The “Comprehensive Tax Cut Act of 2022” provides that South Carolina’s six individual income tax brackets in Code Section 12-6-510 will be collapsed into three tax brackets for tax years after 2021.

New Code Section 12-6-510(B) establishes the following three collapsed individual income tax brackets for tax years after 2021.

New Tax Brackets for Tax Years 2022 and Thereafter*	
Tax Bracket #1	\$0 to \$3,199
Tax Bracket #2	\$3,200 to \$16,039
Tax Bracket #3	\$16,040 and up

*Code Section 12-6-520 continues to provide that these tax brackets will be indexed for inflation each December. The brackets, as adjusted, will apply for tax years beginning in the succeeding calendar year.

For the 2022 tax year the new tax brackets, indexed for inflation, and tax computations for each bracket are:

New Tax Brackets for Tax Year 2022	Bracket Amounts for Tax Year 2022	Compute the tax as follows for each bracket amount
Tax Bracket #1	\$0 to \$3,199	0% times the amount (i.e., exempt from tax)
Tax Bracket #2	\$3,200 to \$16,039	3% times the amount minus \$96
Tax Bracket #3	\$16,040 and up	*6.5% times the amount minus \$658

*Note: For 2022, the top marginal tax rate is 6.5%; the 0% and the 3% tax rates in brackets #1 and #2 do not change.

Effective Date: June 17, 2022, and first applies to tax years beginning after 2021.

Senate Bill 1087, Section 4 (Act No. 228)

2.5% Marginal Tax Rate Reduction in 2007 – To be Repealed

Code Section 12-6-515, which lowered South Carolina’s 2.5% marginal tax rate for individuals, estates, and trusts to 0% effective in 2007, is no longer necessary with the updates to the marginal tax rates in Code Section 12-6-515 as amended, and will be repealed.

Effective Date: This repeal takes effect on January 1 of the first tax year in which the new provisions of Code Section 12-6-510(B) are fully phased-down and the top marginal rate equals 6%. See Act No. 228, Sections 1 and 2, above.

Senate Bill 1087, Section 6 (Act No. 228)

One-Time Individual Income Tax Refund (Rebate) in 2022 – Based on Tax Year 2021 SC 1040 Income Tax Liability

In the “Comprehensive Tax Cut Act of 2022,” the General Assembly appropriated \$1 billion to a Taxpayer Rebate Fund to be used to provide a one-time rebate for each 2021 individual income tax return that reports a South Carolina individual income tax liability.

The rebate is equal to the amount of tax liability on the return, except that if a return has \$700 or more of tax liability, the rebate is \$700. However, if the Department determines that sufficient funds exist, the maximum \$700 rebate amount may be increased so that all returns with a tax liability over the increased maximum receive the same rebate amount.

The Department must issue the individual income tax refund (rebate) by December 31, 2022.

Note: The Department plans to publish additional rebate information in a Department Information Letter and on the Department’s website.

Effective Date: June 17, 2022

House Bill 3247 (Act No. 156)

(See also Senate Bill 1087, Section 3 (Act No. 228))

Military Retirement Income Deduction – Expanded to Full Deduction at Any Age Earned Income Offset by Military Retirement at Any Age – Repealed

Code Section 12-6-1171(A), providing income tax deductions for military retirees, has been amended to allow an individual taxpayer to deduct all military retirement income that is included in South Carolina taxable income, regardless of age.

This full military retirement income deduction replaces the following two deductions for military retirees: (1) the deduction of up to \$17,500 for an individual of any age with both earned income and military retirement income and (2) the deduction of up to \$30,000 for an individual age 65 or older who has military retirement income. These deductions were provided in Code Section 12-6-1171(A)(1) and (A)(2), respectively.

Code Section 12-6-1171(B) and (C) Unchanged. The provisions of Code Section 12-6-1171(B) and (C) remain unchanged, and continue to apply to the full military retirement income deduction. These provisions are:

- **Definition of Retirement Income.** The term “retirement income,” as used in this section, 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.

- Military Surviving Spouse Rules. 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.

“General” Retirement and Age 65 and Older Deductions Unchanged. Code Section 12-6-1170 continues to allow an income tax deduction for: (1) individuals of any age receiving retirement income to reduce taxable retirement income by up to \$3,000 through age 64 and up to \$10,000 at age 65 and thereafter and (2) individuals ages 65 and older to reduce taxable income of any type by up to \$15,000 or \$30,000, depending on marital status and age.

- Special Rules for Military. Code Section 12-6-1170(C) remains unchanged with respect to the following provisions and exceptions for military retirees and surviving spouses of military retirees claiming a deduction under both Code Section 12-6-1171 and Code Section 12-6-1170:
 - a. Reduction Provisions for Taxpayers Claiming Deduction Under Code Sections 12-6-1170 and 12-6-1171 Unchanged. 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. Code Section 12-6-1170(C)(1).
 - b. Reduction and Tracing Required by Military Retiree. 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. Code Section 12-6-1170(C)(2).

Effective Date: May 13, 2022, and first applies to tax years beginning after 2021.

House Bill 5150, Part IB, Section 63, Proviso 63.10 (Act No. 239)

Governor’s Law Enforcement Officer of the Year Awards – Not Subject to South Carolina Income Tax

This temporary proviso provides for an advisory committee created by the Department of Public Safety to select a state law enforcement officer of the year, a county law enforcement officer of the year, and a municipal law enforcement officer of the year. Each winner shall be recognized by the Office of the Governor and receive a \$10,000 award to be distributed by the department. These awards are not subject to South Carolina income tax.

Effective Date: This temporary proviso is effective for State fiscal year July 1, 2022 through June 30, 2023. It will expire June 30, 2023, unless reenacted by the General Assembly in the next legislative session.

Registered Apprenticeship Credit for Hiring Veterans of the Armed Forces – New Credit

Code Section 12-6-3720 has been added to establish a new tax credit for employers that hire veterans of the Armed Forces of the United States as new employees in a registered apprenticeship program. The credit may be taken against the income taxes imposed under Chapter 6, Title 12; the bank tax imposed under Chapter 11, Title 12; the savings and loan association tax imposed under Chapter 13, Title 12; the corporate license tax imposed under Chapter 20, Title 12; and insurance premium taxes imposed under Chapter 7, Title 38.

Credit Amount and Limitations. The tax credit is earned in the year in which the veteran first completes the twelfth consecutive month of employment with the taxpayer. The credit is earned in the same manner and on the same schedule in the second and third year of employment. In the first year in which the credit is earned, the amount of the credit is \$3,000 for each eligible employee. The credit is \$2,500 in the second year and \$1,000 in the third year, if the qualifying individual remains employed. The credit may not be claimed beyond the third year.

The total amount of the tax credit for a taxable year may not exceed the taxpayer's tax liability. There is no credit carryover.

Other Credit Requirements. Other requirements of the credit are:

1. The credit applies to qualifying employees hired after 2021 and before 2027. Code Section 12-6-3720(A) and (E). Code Section 12-6-3720(G) provides that nothing in this section may be construed to allow an employer to claim this credit for a veteran if the veteran was hired before the effective date of this section.
2. The tax credit may only be claimed for an eligible individual once, regardless of the employer.
3. A "veteran" qualifying for the credit is "a person who served on active duty in the Armed Forces of the United States and who, within three years of being hired in a qualifying apprenticeship program, was honorably discharged or released from such service due to a service-connected disability."
4. The Department shall consult with the Department of Commerce, Apprenticeship Carolina of the South Carolina Technical College System, and any other agency or entity necessary to establish a process by which employers are aware of an individual's eligibility for the credit.
5. The apprenticeship program must have been validated by the United States Department of Labor.
6. "Full-time" has the same meaning as provided in Code Section 12-6-3360, the job tax credit provision.

Effective Date: June 22, 2022

Registered Apprenticeship Credit for Hiring Formerly Incarcerated Individuals – New Credit

Code Section 12-6-3710 has been added to establish a new tax credit for employers that hire formerly incarcerated individuals as new employees in a registered apprenticeship program. The credit may be taken against the income taxes imposed under Chapter 6, Title 12; the bank tax imposed under Chapter 11, Title 12; the savings and loan association tax imposed under Chapter 13, Title 12; the corporate license tax imposed under Chapter 20, Title 12; and insurance premium taxes imposed under Chapter 7, Title 38.

Credit Amount and Limitations. The tax credit is earned in the year in which the formerly incarcerated individual first completes the twelfth consecutive month of employment with the taxpayer. The credit is earned in the same manner and on the same schedule in the second and third year of employment. In the first year in which the credit is earned, the amount of the credit is \$3,000 for each eligible employee. The credit is \$2,500 in the second year and \$1,000 in the third year, if the qualifying individual remains employed. The credit may not be claimed beyond the third year.

The total amount of the tax credit for a taxable year may not exceed the taxpayer's tax liability. There is no credit carryover.

Other Credit Requirements. Other requirements of the credit are:

1. The credit applies to qualifying employees hired after 2021 but before 2027. Code Section 12-6-3710(A) and (E). The credit may not be claimed for a formerly incarcerated individual if the individual was hired before 2022. Code Section 12-6-3710(G).
2. The tax credit may only be claimed for an eligible individual once, regardless of the employer.
3. An "incarcerated individual" qualifying for the credit is an individual that, within three years of being hired in a qualifying apprenticeship program, was held in a state or county prison, jail, or detention center for at least 90 consecutive days. However, an incarcerated individual does not include an individual incarcerated for a violent crime set forth in Code Section 16-1-60, unless such individual received a pardon for the offense or unless the only disqualifying violent crime resulted in a sentence of ten years or less under Code Sections 44-53-370(E) or 44-53-375(C).
4. The Department shall consult with the Department of Commerce, Apprenticeship Carolina of the South Carolina Technical College System, and any other agency or entity necessary to establish a process by which employers are aware of an individual's eligibility for the credit.
5. The apprenticeship program must have been validated by the United States Department of Labor.

6. “Full-time” has the same meaning as provided in Code Section 12-6-3360, the job tax credit provision.

Effective Date: June 22, 2022

Senate Bill 901, Sections 1, 2, and 7 (Act No. 237)

Solar Energy Property Credit – Amendments and New Credit Repeal Date

Act No. 77 of 2019 added Code Section 12-6-3775 to provide for an income tax credit equal to 25% of the cost, including the installation cost, of qualifying nonresidential “solar energy property” located in South Carolina. Act No. 77 contained a repeal provision stating the credit would be repealed on December 31, 2021; however, if the credit was earned before the repeal date, then the credit can continue to be claimed. On June 28, 2022, Code Section 12-6-3775 was retroactively reenacted as it existed on December 31, 2021, and was also amended effective for specifically stated tax years explained below. Act No. 237 of 2022 postpones the repeal of the credit until December 31, 2024.

Two of the amendments to Code Section 12-6-3775 in Act No. 237, and their applicability to a taxpayer earning and claiming a portion of the credit before 2022 and to a taxpayer earning the credit after 2021, are summarized below. Other provisions and credit requirements contained in Code Section 12-6-3775 were unchanged and remain applicable to all taxpayers.

1. Date Credit is Claimed – Amended

For a solar energy credit earned after 2021. Code Section 12-6-3775(B)(2), as amended, provides that the credit is earned in the year in which the qualifying solar energy property is placed in service but must be taken in five equal annual installments, beginning within three years of the year in which the property was placed in service. Any unused credit is carried forward five years from the year that the credit was able to be taken.

For a solar energy credit taken before 2022. Code Section 12-6-3775(B)(2), as retroactively reinstated, continues to provide that the credit is earned in the year in which the solar energy property is placed in service but must be taken in five equal annual installments, beginning in the year the property is placed in service. Any unused credit is carried forward five years from the year that the credit was able to be taken.

2. Maximum Credit Amount – Amended

For a solar energy credit earned after 2021. Code Section 12-6-3775(D), as amended, provides that a credit for each installation of solar energy property placed in service may not exceed \$5 million. The total amount of credits available to be taken for all taxpayers in each tax year continues to be limited to an aggregate of \$2.5 million.

For a solar energy credit taken before 2022. Code Section 12-6-3775(D), as retroactively reinstated, continues to provide that a credit for each installation of solar energy property placed in service may not exceed \$2.5 million.

The third amendment to Code Section 12-6-3775 in Act No. 237, the addition of Code Section 12-6-3775(G) and its applicability to credits earned for a solar energy property placed in service after 2019, is summarized below.

3. Partnership Allocation of Credit – New Code Section 12-6-3775(G)

For a solar energy credit earned after 2019. Code Section 12-6-3775(G) has been added to provide that if the taxpayer is a partnership or a 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 the partners or members on an annual basis, including without limitation, an allocation of the entire credit or unused 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. The allocation must be allowed without regard to any provision of the Internal Revenue Code or regulations promulgated pursuant thereto, that may be interpreted as contrary to the allocation including, without limitation, the treatment of the allocation as a disguised sale.

For a solar energy credit earned in 2019. Code Section 12-6-3775(G) as added by Act No. 237 does not apply.

Repeal Date: The credit under Code Section 12-6-3775 is repealed on December 31, 2024. If the credit is earned before the repeal, then Code Section 12-6-3775, as amended, continues to apply until the credit has been fully claimed.

Effective Dates: See various effective dates above.

House Bill 5150, Part IB, Section 117, Proviso 117.170 (Act No. 239)

Credit for Rehabilitation of Certified Historic Structure – Waiver of Fee during Fiscal Year 2022 – 2023

Code Section 12-6-3535 provides two similar income tax credits to taxpayers making qualified rehabilitation expenditures for a certified historic structure in South Carolina (one for taxpayers that qualify for the federal historic rehabilitation credit in Internal Revenue Code Section 47 and one for individual taxpayers that do not qualify for the federal historic rehabilitation credit).

In 2020, Code Section 12-6-3535(G) was added to provide that a taxpayer claiming the credit must pay a preliminary and a final fee to the South Carolina Department of Archives and History for the State Historic Preservation Grant Fund. The fee schedules are listed in the statute and are based on 0% to .5% of estimated expenses and 0% to 1% of actual expenses.

Under this temporary proviso, the requirements of Code Section 12-6-3535(G) relating to the payment of fees are suspended for fiscal year 2022-2023.

Effective Date: This temporary proviso is effective for State fiscal year July 1, 2022 through June 30, 2023. It will expire June 30, 2023, unless reenacted by the General Assembly in the next legislative session.

Senate Bill 635, Section 4 (Act No. 172)

Industry Partnership Fund Credit – Credit Amounts Amended

Code Section 12-6-3585 allows a taxpayer to claim a credit against income taxes, bank taxes, corporate license fees, insurance premium taxes, or any combination of these taxes, for contributions made to the Industry Partnership Fund at the South Carolina Research Authority (“SCRA”) or an SCRA-designated affiliate, or both, pursuant to Code Section 13-17-88(E). To qualify for the credit, the taxpayer must retain a form provided by SCRA identifying the year and amount of credit for which the taxpayer qualifies. The total aggregate credit that may be allocated to all taxpayers in a single tax year remains \$9 million.

Code Section 12-6-3585(A) has been amended to provide that a taxpayer may receive up to \$500,000 in credit annually. Previously, the credit amount was limited to \$250,000 per taxpayer annually. This section has been further amended to provide that if the \$9 million cap is not met within 60 days of the annual opening date for the application of the credit, the maximum credit allowed to a single taxpayer is automatically increased to \$1 million for the remainder of the year until the \$9 million cap is reached.

Effective Date: July 1, 2021, for each tax year beginning after 2020.

House Bill 5075, Section 1.A. and 1.C. (Act No. 202)

Low Income Housing Credit – Amendments

Code Section 12-6-3795 provides a South Carolina housing tax credit (“housing tax credit”) to eligible owners of residential low-income rental buildings. A building owner must apply for and obtain a housing credit allocation and an eligibility statement from the South Carolina Housing and Finance Development Authority (“housing authority”) certifying that the project qualifies for the credit.

An eligibility statement issued to a qualified project must now include the annual amount of housing tax credit allocated to a project for each year of the credit period and the total amount allocated to the project for all years. Code Section 12-6-3795(C)(1).

Under the amendments to the statute, the total amount of housing tax credits available to all qualified projects in a calendar year has been capped and additional restrictions addressing how credits are to be allocated have been enacted. Code Sections 12-6-3795(B)(5) and (C). The

housing tax credit allocated to a single qualified project cannot exceed the amount of the federal housing tax credit. Code Section 12-6-3795(B)(1). Previously, the credit was equal to the amount of the federal credit and there was no further limitation on the amount of the South Carolina housing tax credit. The housing authority is responsible for the allocation and administration of the housing tax credit and ensuring that all dollar limitations and restrictions are not exceeded. Code Section 12-6-3795(D).

The recapture provisions of the statute have been amended to provide that any recapture of any housing tax credit must be reported in the same manner as the recapture of the federal housing tax credit. Code Section 12-6-3795(B)(2).

Effective Date: May 16, 2022, and first applies to tax years beginning after 2021.

Senate Bill 901, Section 6 (Act No. 237)

Job Development and Job Retraining Credits Qualification – New “Related Person” Provision

Chapter 10, Title 12, allows a qualifying business a credit against withholding taxes if the business is engaged in certain types of businesses and the qualifying business is either: (1) creating a minimum number of new jobs and investing a minimum amount of investment at a facility in South Carolina (“job development credit”), or (2) is retraining existing employees located in South Carolina and the training is necessary for the business to remain competitive or to introduce new technologies (“retraining credit”). To qualify for the job development credit, the business must be approved by the Coordinating Council for Economic Development and must enter into a revitalization agreement with the Council. Before claiming a job development credit, the qualifying business must have met its minimum job requirement and its minimum capital investment requirement agreed to in the revitalization agreement. For the retraining credit, a business must enter into an agreement with the State Board for Technical and Comprehensive Education and ensure the qualifying employees complete the relevant training.

Code Section 12-10-80 has been amended to add a new provision concerning related persons. For purposes of Chapter 10, Title 12, a qualifying business may designate up to two “related persons” whose jobs and investments may be included in determining whether the qualifying business has met and maintained its minimum job and capital investment requirements so long as the related person’s jobs and capital investment are located at the qualifying business’s project. Qualifying expenditures incurred by a related person may be treated as though they were incurred by the qualifying business and each related person may claim the job development credit for jobs created by the related person and may include any qualifying expenditures of the qualifying business or another related person as if they had been created and made by the related person.

A single member limited liability company (LLC) that is disregarded or a qualified subchapter S subsidiary (QSSS) as defined in Section 1361(b)(3)(B) of the Internal Revenue Code is treated as the qualifying business for all purposes of Chapter 10, Title 12; however, the LLC or QSSS counts as a related person for purposes of the two entity or person limit.

Code Section 12-10-30 has been amended to add a definition of “related person.” “Related person” includes any entity or person that bears a relationship to a business as provided in Internal Revenue Code Section 267 or 707(b). The related person must be a “qualifying business” as defined in Code Section 12-10-30, except for the job development credit, the related person does not have to be engaged in a business of the type identified in the job tax credit statute, Code Section 12-6-3360. For the retraining credit, the related person does not have to be engaged in manufacturing or processing operations or technology intensive activities at a manufacturing, processing, or technology intensive facility as defined in Code Section 12-6-3360(M).

Effective Date: June 22, 2022

House Bill 3340, (Act No. 184)

License Fee (Tax) Credit for Infrastructure – Amendments

Code Section 12-20-105 allows a company subject to the license fee imposed under Code Section 12-20-100 on South Carolina property and gross receipts of a utility such as a power company, water company, gas company, or telephone company, a credit against its license fee liability for amounts paid in cash for infrastructure for an eligible project. The statute has been amended as follows:

1. Code Section 12-20-105(A) has been amended to allow a company to enter into a multi-year commitment to provide cash for eligible infrastructure for an eligible project. If a company enters into such agreement, and the eligible project is not constructed by the end of the tax year, the company may provide cash in that year or a future year to another eligible project and retain the credit.
2. Code Section 12-20-105(C)(7) has been added to allow for cash payments to a county, political subdivision, or agency of the state for purposes of defraying public debt incurred to pay for infrastructure at a project qualifying under Code Section 12-10-105(B)(2) to qualify for the credit. A qualifying project under Code Section 12-10-105(B)(2) is a project located in a business, commercial, or industrial park, or a combination thereof, which is used for economic development and which is owned by a county, political subdivision, or agency of the state at the time the improvements are paid for.
3. Code Section 12-20-105(E)(1) now provides that the maximum amount of credit that can be claimed in any tax year by a single company is \$600,000. Previously, the amount was \$400,000.
4. Code Section 12-20-105(E)(2) has been added to allow for an increase in the credit amount for the tax year if the eligible project is located in a Tier II, Tier III, or Tier IV County pursuant to Code Section 12-6-3360(B), the job tax credit county rankings. The increased amounts are:

County Tier	Credit Increase Amount
Tier II County	\$50,000
Tier III County	\$100,000
Tier IV County	\$150,000

To be eligible for the increased credit amounts, the total of a company’s credit claim for the taxable year must be for a qualifying project located in a single Tier II, Tier III, or Tier IV County. If the project extends across a county boundary, the qualifying project is considered to be located in the county with the lowest credit amount unless at least 80% of the total costs associated with the project is attributable to that portion of the project located in the county with the higher tier credit.

5. Code Section 12-10-105(I) has been amended to allow debt payments on any loans or bonds issued to pay for qualifying infrastructure at a project qualifying under Code Section 12-10-105(B)(3). A project qualifying under Code Section 12-10-105(B)(3) is a county or municipality-owned multiuse sports and recreation complex located in a county that collected at least \$5 million in state accommodations tax in at least one fiscal year.

Effective Date: May 16, 2022, and applies for credits first claimed for tax years beginning after 2021.

REENACTED OR REVISED TEMPORARY PROVISOS

The following temporary provisos were enacted in a prior legislative session and were reenacted by the General Assembly in 2022. Temporary provisos are effective for the State fiscal year July 1, 2022 through June 30, 2023, and will expire June 30, 2023, unless reenacted by the General Assembly in the next legislative session.

House Bill 5150, Part IB, Section 118, Proviso 118.10 (Act No. 239)

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 an individual who deducted the same actual cost as a business expense.

House Bill 5150, Part IB, Section 1A, Proviso 1A.9 (Act No. 239)

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

This temporary proviso allows public school teachers identified in the Professional Certified Staff (PCS), 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 \$300 reimbursement designed to offset expenses incurred for teaching supplies and materials. The reimbursement is not considered taxable income by South Carolina. In previous years, the reimbursement amount was \$275.

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 2022 tax return. The credit is the lesser of \$300 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, 2023, and may include expenses incurred after December 31, 2022. 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 5150, Part IB, Section 1A, Proviso 1A.10 (Act No. 239)

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 5150, Part IB, Section 117, Proviso 117.114 (Act No. 239)

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 2022 - 2023.

House Bill 5150, Part IB, Section 109, Proviso 109.13 (Act No. 239)

Renewable Fuel Credit – Placed in Service Date Extended

Code Section 12-6-3610(A) provides an income tax credit equal to 25% of the cost to the taxpayer of purchasing, constructing, and installing property used for distribution or dispensing renewable fuel. Code Section 12-6-3610(B) provides an income tax credit equal to 25% of the cost to the taxpayer of constructing or renovating a building and equipping the facility for the purpose of producing renewable fuel. Code Section 12-6-3610(D) provides that the taxpayer must place the property or facility in service prior to January 1, 2020.

This temporary proviso extends the date the taxpayer must place property or facility into service that is used for distribution or dispensing renewable fuel until January 1, 2023.

REMINDERS

The following provisions were enacted prior to 2022 but are being phased in or are effective in 2022 and thereafter. The provisions are summarized below for informational purposes.

House Bill 3516, Section 15 (Act No. 40 of 2017)

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:

1. “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.
2. “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.
3. “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 of 2017)

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 of 2017)

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.

Senate Bill 314 (Act No. 45 of 2019)

Service as Preceptor for Clinical Rotations – New Credit and New Deduction

Overview. Code Section 12-6-3800 has been added to provide an income tax credit for eligible physicians, advanced practice registered nurses, or physician assistants who serve as a preceptor for qualifying clinical rotations required by a medical school, physician assistant program, or advanced practice nursing program. Code Section 12-6-1140(14) has been added to provide a deduction for additional rotations after the taxpayer has reached the credit maximum. Below is a summary of the credit and the deduction.

A. Preceptor Credit

Credit for Physician Preceptors. Code Section 12-6-3800(B) provides a credit for each clinical rotation a physician serves as preceptor for a qualifying medical school-required clinical rotation, advanced practice nursing program-required clinical rotation, or physician assistant program-required clinical rotation. The credit amount is as follows:

1. If at least 50% of the physician's practice consists of a combined total of Medicaid insured, Medicare insured, and self-pay patients, then the credit is equal to \$1,000 for each rotation served, not to exceed \$4,000 a year.
2. If at least 30% of the physician's practice consists of a combined total of Medicaid insured, Medicare insured, and self-pay patients, then the credit is equal to \$750 for each rotation served, not to exceed \$3,000 a year.

Credit for Advanced Practice Registered Nurse and Physician Assistant Preceptors. Code Section 12-6-3800(C) provides a credit for each clinical rotation an advanced practice registered nurse or physician assistant serves as preceptor for a qualifying advanced practice nursing program-required clinical rotation or physician assistant program-required clinical rotation. The credit amount is as follows:

1. If at least 50% of the advanced practice registered nurse's or physician assistant's practice consists of a combined total of Medicaid insured, Medicare insured, and self-pay patients, then the credit is equal to \$750 for each rotation served, not to exceed \$3,000 a year.
2. If at least 30% of the advanced practice registered nurse's or physician assistant's practice consists of a combined total of Medicaid insured, Medicare insured, and self-pay patients, then the credit is equal to \$500 for each rotation served, not to exceed \$2,000 a year.

Phase In. The credit is phased in over five years in equal and cumulative installments beginning in tax year 2020. The phased-in credit amounts are provided below and reflect completion of the maximum of four allowed rotations during the year.

Eligible Taxpayer: Physician Preceptor				
	If 50% or More of Practice is Medicaid, Medicare, and Self Pay:		If 30% or More of Practice is Medicaid, Medicare, and Self Pay:	
Tax Year	Credit Per Rotation (x)	Maximum Credit Per Year (4x)	Credit Per Rotation (x)	Maximum Credit Per Year (4x)
2020	\$200	\$800	\$150	\$600
2021	\$400	\$1,600	\$300	\$1,200
2022	\$600	\$2,400	\$450	\$1,800
2023	\$800	\$3,200	\$600	\$2,400
2024	\$1,000	\$4,000	\$750	\$3,000
2025	\$1,000	\$4,000	\$750	\$3,000
2026	Credit Repealed			

Eligible Taxpayer: Advanced Practice Registered Nurse or Physician Assistant Preceptor				
	If 50% or More of Practice is Medicaid, Medicare, and Self Pay:		If 30% or More of Practice is Medicaid, Medicare, and Self Pay:	
Tax Year	Credit Per Rotation (x)	Maximum Credit Per Year (4x)	Credit Per Rotation (x)	Maximum Credit Per Year (4x)
2020	\$150	\$600	\$100	\$400
2021	\$300	\$1,200	\$200	\$800
2022	\$450	\$1,800	\$300	\$1,200
2023	\$600	\$2,400	\$400	\$1,600
2024	\$750	\$3,000	\$500	\$2,000
2025	\$750	\$3,000	\$500	\$2,000
2026	Credit Repealed			

Credit Limit and Carryforward. Credits are considered to be earned in the tax year in which the rotation is served. The taxpayer may claim 50% of the credit in the tax year the credit is earned and 50% the following tax year. The credit claimed in a tax year may not exceed 50% of the taxpayer's remaining tax liability after all other credits have been applied. Any unused credit may be carried forward to the following year, except that a carryforward may not be used for a tax year that begins more than 10 years from the year the credit was earned. Code Section 12-6-3800(D).

B. Deduction Allowed for Taxpayers Who Maximize the Credit

If a taxpayer earns the maximum annual credit amount allowed by Code Section 12-6-3800(B) or (C), and the taxpayer serves as preceptor for additional rotations that otherwise would have qualified for the credit, then the taxpayer may claim a deduction in an amount equal to the amount that the credit would have equaled. The taxpayer may earn this deduction up to six times

a tax year. The deduction is also subject to phase in. Code Section 12-6-1140(14) has been added to provide for this deduction.

C. Other Requirements and Limitations of the Credit and Deduction

Other requirements and limitations include:

1. A preceptor must provide a minimum of two program-required clinical rotations within a calendar year.
2. The preceptor cannot be otherwise compensated for serving as a preceptor.
3. The credit and deduction are not cumulative and may not be combined.

D. Definitions

“Preceptor” means a physician, advanced practice nurse practitioner, or physician assistant who provides supervision and instruction during student clinical training experiences, is otherwise not compensated for doing so, and provides a minimum of two required clinical rotations within a calendar year. Code Section 12-6-3800(A)(3). Definitions are also provided for: “independent institution of higher learning,” “medical school-required clinical rotation,” “physician assistant program-required clinical rotation,” and “advanced practice nursing program-required clinical rotation.”

E. Reporting by Department

By March 31 of each year the credit is allowed, the Department is required to report to the Senate Finance Committee, the House of Representatives Ways and Means Committee, and the Governor the number of taxpayers claiming the credit, the total amount of credits allowed, and the number of hours that the recipient taxpayers served as preceptors. Code Section 12-6-3800(F).

See SC Revenue Ruling #20-2 for more information regarding the credit and deduction.

Repeal Date: January 1, 2026

Effective Date: Applies to tax years 2020 through 2025.

Senate Bill 76, Section 1 (Act No. 138 of 2020)

Energy Efficient Manufactured Home – Credit Extended

Code Section 48-52-870 was enacted in 2008 (Act No. 354) to provide a \$750 nonrefundable income tax credit to any person who purchases from a retail dealership licensed by the South Carolina Manufactured Housing Board for use in South Carolina a manufactured home designated by the United States Environmental Protection Agency and the United States

Department of Energy as meeting or exceeding each agency's energy saving efficiency requirements or designated as meeting or exceeding such requirements under each agency's ENERGY STAR program. The income tax credit was effective from July 1, 2009 through July 1, 2019. Act No. 91 of 2019 extended the credit for purchases of qualifying manufactured homes through June 30, 2020.

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

Effective Date: May 26, 2020

PROPERTY TAXES

Senate Bill 1087, Section 5 (Act No. 228)

Manufacturing Property – Increase in Partial Exemption

Code Section 12-37-220(B)(52) has been amended to exempt from ad valorem property taxes 42.8571% of the property tax value of real and personal manufacturing property assessed for property tax purposes pursuant to Code Section 12-43-220(a)(1). This 42.8571% exemption is effective for property tax years beginning after 2021, with no phase-in period. Prior to amendment, the percentage of manufacturing property exempted was to be 14.2857% for property tax years 2023 and thereafter and the partial exemption was being phased in over a six-year period beginning in property tax year 2018.

The exemption does not apply to property owned or leased by a public utility as that term is defined in Code Section 58-33-5, regulated by the Public Service Commission, even if the property is used for manufacturing.

The revenue loss resulting from the partial 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, but must not exceed \$170 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. Previously, the reimbursement to the political subdivisions from the partial exemption was capped at \$85 million.

Effective Date: June 17, 2022, and applies to property tax years after 2021.

Senate Bill 233, Section 3.B. (Act No. 236)

Certain Farm Buildings and Agricultural Structures – Now Exempt

Code Section 12-37-220(B)(14) provides a property tax exemption for all farm machinery and equipment including self-propelled farm machinery and equipment, except for vehicles licensed for use on the highway. This subsection has been amended to provide that farm buildings and agricultural structures owned by a producer in South Carolina and used to house livestock, poultry, crops, or farm equipment or supplies are also exempt from property taxes.

Effective Date: June 22, 2022, and applies to property tax years beginning after 2021.

Senate Bill 233, Section 3.A. (Act No. 236)

Property Valuation Adjustment for Flooding, Hurricane, or Wind Event

Code Section 12-39-250(B) requires the County Assessor or the County Board of Assessment Appeals to order the County Auditor to adjust the value and assessment of real property which has sustained damage as a result of fire, if the taxpayer applies for the correction prior to the payment of the tax. The code section has been amended to include flooding, hurricane, or wind event in addition to fire as a qualifying event for purposes of applying for the valuation adjustment.

Effective Date: June 22, 2022, and applies to property tax years beginning after 2021.

Senate Bill 233, Section 1 (Act No. 236)

Property Tax Exemption for Disabled Veterans, Police Officers and Firefighters – Amendments Relating to “Heirs’ Property” and “Qualified Surviving Spouses”

Code Section 12-37-220(B)(1) exempts from ad valorem property taxes a house owned by (a) an “eligible owner” in fee or jointly with a spouse or (b) a “qualified surviving spouse.”

Eligible Owner. An “eligible owner” includes a disabled veteran, a disabled former law enforcement officer, and a disabled former firefighter (including a volunteer firefighter) who is permanently and totally disabled as that term is defined in Code Section 12-37-220(B)(1)(f)(ii) as a result of a service-connected disability. In the case of a disabled veteran, the eligible owner must get the disability certified by the county service officer.

Who may qualify as an eligible owner has been expanded by new Code Section 12-37-220(B)(1)(f). Eligible owner now includes:

A person who owns an interest in a house and meets all other requirements of this item and is otherwise an eligible owner but for the ownership requirement is deemed to be an eligible owner and is eligible for the exemption allowed by this item so long as the county assessor certifies to the Department of Revenue that the house is located on heirs’ property and the person is the owner-occupied resident of the house. A person eligible pursuant to this subitem must not claim the special assessment rate allowed pursuant to Section 12-43-220(c) on any other property. For purposes of this item, heirs’ property has the same meaning as provided in Section 15-61-320.

Code Section 15-61-320(5) provides:

“Heirs’ property” means real property held in tenancy in common that satisfies all of the following requirements as of the filing of a partition action:

(a) there is no agreement in a record binding all of the cotenants that governs the partition of the property;

(b) one or more of the cotenants acquired title from a relative, whether living or deceased; and

(c) any of the following applies:

(i) twenty percent or more of the interests are held by cotenants who are relatives;

(ii) twenty percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or

(iii) twenty percent or more of the cotenants are relatives.

The statutory definition of “house,” in Code Section 12-37-220(B)(1)(f)(iv) (as renumbered), has been amended to reflect this change in Code Section 12-37-220(B)(1)(e).

Qualified Surviving Spouse. Prior to amendment, Code Section 12-37-220(B)(1)(b) allowed a house owned by a qualified surviving spouse of certain deceased armed forces personnel, police officers, or firefighters, including a subsequently acquired house, to qualify for a property tax exemption if the original house was acquired from the deceased spouse. That section has been amended to eliminate the statutory requirement that the relevant house be “acquired from the deceased spouse.” Similarly, the language in renumbered subpart (f)(iii), regarding a “qualified surviving spouse,” specifies that a “qualified surviving spouse” also includes the surviving spouse of a member of the armed forces of the United States who was killed in action, or a law enforcement officer or a firefighter who died in the line of duty as a law enforcement officer or firefighter. Previously, the deceased spouse (i.e., armed forces personnel, police officer, firefighter) had to have owned the home solely in fee or jointly with their spouse for the surviving spouse to qualify for the exemption. That provision relating to ownership has been removed. However, the qualified surviving spouse must remain unmarried, reside in the house, and acquire ownership of the house in fee or for life to qualify for the exemption.

Note: Other property tax exemptions may be available for homes or motor vehicles of taxpayers and surviving spouses who do not meet the requirements of an “eligible owner” or a “qualified surviving spouse” noted above.

Effective Date: June 22, 2022

House Bill 5144 (Act No. 203)

Rural Telephone Exemption – Amended

Code Section 12-37-220(B)(10) provides a property tax exemption for the property of telephone companies and rural telephone cooperatives operating in South Carolina if the property is used in providing rural telephone service and it was exempt as of December 31, 1973; provided, however, that the amount of property subject to taxation in any tax district shall not be less than the net amount to which the tax millage was applied for the year ending December 31, 1973. Additionally, property added in any tax district after December 31, 1973, is exempt from tax in the proportion that the exempt property of such company or cooperative as of December 31, 1973, in that tax district was to the total property of such company or cooperative as of December 31, 1973 in that tax district.

In Act No. 203, the Legislature made certain findings intending to clarify the rural telephone exemption, including stating that the exemption for “property used in providing telephone service” applies to all property used for these purposes, regardless of technology used or whether it is used for other purposes and the exemption was never intended to be qualified or limited in any manner, unlike certain other exemptions.

Consistent with the legislative findings, Code Section 12-37-220(B)(10) has now been clarified to address multi-use property. Property qualifying for the rural telephone exemption includes property used in providing telephone service, as defined in Code Section 33-46-20, in rural areas. It also includes mixed-use property, which is exempt without regard to whether the property is used in providing services in addition to telephone service in rural areas and regardless of the technology used to provide the services including, but not limited to broadband over a high-speed internet connection that allows the customer to access basic voice grade local service from the voice provider of the customer’s choice.

Code Section 33-46-20 defines “telephone service” as “the providing of communication service including, but not limited to, the transmission of voice, sounds, signals, pictures, writing, or signs of all kinds through the use of electricity or the electromagnetic spectrum between the transmitting and receiving apparatus, together with any communication services requiring band-width capacity, community antenna, and cable television services and including all lines, wires, radio, lights, electromagnetic impulse and all facilities, systems, or other means used in the rendition of such services, but not including message telegram service or radio broadcasting services or facilities within the meaning of Section 3(o) of the Federal Communications Act of 1934, as amended (47 USC Section 153(o)).”

Effective Date: May 16, 2022, and applies to property tax years beginning after 2021.

REENACTED TEMPORARY PROVISOS

The following temporary provisos were enacted in a prior legislative session and were reenacted by the General Assembly in 2022. Temporary provisos are effective for the State fiscal year July 1, 2022 through June 30, 2023, and will expire June 30, 2023, unless reenacted by the General Assembly in the next legislative session.

House Bill 5150, Part IB, Section 109, Proviso 109.11 (Act No. 239)

Notification of Protest to Affected County and School District

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. Code Section 12-60-2120 allows a property taxpayer to protest a property tax assessment or the denial of a property tax exemption.

House Bill 5150, Part IB, Section 1, Proviso 1.46 (Act No. 239)

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 5150, Part IB, Section 113, Proviso 113.7 (Act No. 239)

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 a specified amount 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 5150, Part IB, Section 117, Proviso 117.37 (Act No. 239)

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.

House Bill 5150, Part IB, Section 92D, Proviso 92D.1 (Act No. 239)

Improvements to Property Damaged by Catastrophic Weather Event – Time for Improvements for Eligible Events

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, Hurricane Matthew of 2016, or Hurricane Florence of 2018, after the event and before June 30, 2023, is not considered an improvement and may not be reassessed at a higher rate as a result of the assistance provided.

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, implemented by the Office of Resilience, Disaster Recovery Office. 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 in 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 5150, Part IB, Section 117, Proviso 117.114 (Act No. 239)

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 2022 - 2023.

REMINDERS

The following provisions were enacted prior to 2022 but are being phased in or are effective in 2022 and thereafter. The provisions are summarized below for informational purposes.

Senate Bill 648, Section 5 (Act No. 106 of 2021)

Consolidation of Clarendon County School Districts 2 and 4 – Millage

Effective July 1, 2022, Clarendon County School District 2 and Clarendon County School District 4 are abolished. The powers and duties of the two school districts' respective boards of trustees will devolve on the board of trustees of a consolidated school district to be known as Clarendon County School District.

For purposes of determining the 2022 property tax millage levy of the new Clarendon County School District, the millage levy will be determined and calculated by the Department of Revenue based on the 2021 levy of Clarendon County School Districts 2 and 4 and the value of a mill in each district. The millage levy for 2023 must be the millage levy for the previous year. The allowed millage levy for 2022 and 2023 may be increased by the Department if necessary to comply with educational mandates imposed by state or federal law.

Beginning in 2024, the new board of trustees is authorized to impose an annual tax levy, exclusive of any millage imposed for bond debt service. Upon certification to the county auditor of the tax levy to be imposed, the auditor will levy, and county treasurer will collect, the certified millage upon all taxable property in the Clarendon County School District. Clarendon County School District may raise its millage by two mills or less over the millage levied for the previous year in addition to any millage needed to adjust for the Education Finance Act inflation factor and sufficient to meet the requirements of Code Section 59-21-1030 (level of financial effort per pupil required for each school district). Any increase above the two mill increase for operations, may be levied only after a majority of the registered electors of the new consolidated district vote in favor of a millage increase in a referendum called by the district school board and conducted by the county election commission. If the referendum is to be held at any time other than the general election, then the school district is required to pay the cost of the referendum. If these provisions conflict with the provisions of Code Section 6-1-320, relating to millage rate increase limitations, the provisions of Code Section 6-1-320 control.

Effective Date: April 12, 2021

SALES AND USE TAXES

House Bill 5150, Part IB, Section 44, Proviso 44.10 (Act No. 239)

South Carolina Agriculture Tax Exemption Card (SCATE Card) – Fee Authorized for Card

The agricultural exemption certificate (Form ST-8F) used by farmers to purchase certain items (e.g., farm machinery, fertilizer, feed, containers) exempt from the sales and use tax has been replaced by a new South Carolina Agriculture Tax Exemption (“SCATE”) card issued by the South Carolina Department of Agriculture. The Department of Agriculture began accepting applications and issuing SCATE cards in February 2022. These cards replaced the agricultural exemption certificate effective July 1, 2022. To obtain a SCATE card, a farmer must apply with the Department of Agriculture at [SCATEcard.com](https://www.scdot.gov/SCATEcard.com).

This temporary proviso authorizes the Department of Agriculture to charge up to \$24 for a three-year SCATE card. This provision also authorizes the Department of Agriculture to charge \$5 for any replacement SCATE cards.

Effective Date: This temporary proviso is effective for State fiscal year July 1, 2022 through June 30, 2023. It will expire June 30, 2023, unless reenacted by the General Assembly in the next legislative session.

Senate Bill 901, Section 4 (Act No. 237)

Watercraft Motor Sales – Maximum Tax Now Applies

Code Section 12-36-2110(A), concerning the sales of items subject to a maximum sales or use tax and maximum casual excise tax, has been amended to add watercraft motors. The sales of watercraft motors, effective July 1, 2022, are subject to the sales and use tax or the casual excise tax at a rate of 5%, but no more than \$500. Since watercraft motors are subject to the \$500 maximum tax, local sales and use taxes do not apply to the sales of watercraft motors.

Effective Date: June 22, 2022, and first applies on July 1, 2022.

Senate Bill 901, Section 3 (Act No. 237)

Filing Requirement for Multi-Location Returns – Sales Tax on Accommodations

Code Section 12-36-922 has been added to Chapter 36 of Title 12 to require that, for each accommodations tax return filed with multiple locations, the filer must provide electronically the location information by address and the amount of net taxable sales for each location.

Effective Date: June 22, 2022

Senate Bill 152 (Act No. 166)

County Green Space Sales Tax Act – New Local Sales and Use Tax

The County Green Space Sales Tax Act has been enacted in Chapter 10, Title 4, to allow the imposition of a local sales and use tax, at a rate not to exceed 1%, within a county for procuring, or for servicing bonds used to procure, open lands or green space for preservation by and through the acquisition of interests in real property. The interest in real property that may be acquired for preservation includes the acquisition of fee simple titles, conservation easements, development rights, rights of first refusal, options, leases with options to purchase, and any other interest in real property.

The tax must be approved by ordinance subject to a referendum open to all qualified electors residing in the county and must be administered and collected by the Department in the same manner that other sales and use taxes are collected. The tax is in addition to all other local sales and use taxes.

The tax applies to the gross proceeds of sales in the applicable jurisdiction which are subject to the tax imposed by Chapter 36, Title 12, the collection and enforcement provisions of Chapter 54, Title 12, and to tangible personal property subject to the use tax in Chapter 36, Title 12. The gross proceeds of the sales of unprepared food eligible for purchases with United States Department of Agriculture food coupons, and items subject to a maximum tax in Chapter 36, Title 12, are exempt from this tax.

The tax, if approved in the referendum, must be imposed on the first of May following the date of the referendum. The county's election commission must certify the results of the referendum to the county governing board and the Department of Revenue no later than November 30th. If the certification is not timely made to the Department of Revenue, then the imposition is postponed for twelve months. The tax terminates the final day of the maximum time period specified for the imposition.

If a reimposition of the tax is approved in a referendum, then the reimposed tax is effective immediately following the termination of the earlier imposed tax. The reimposed tax terminates on the applicable thirtieth of April, not to exceed seven years from the date of reimposition.

A county imposing the tax must form an advisory committee, to include seven designated members, to assist the Department in distribution of the taxes collected.

Effective Date: May 16, 2022

House Bill 3948 (Act No. 189)

Capital Projects and Local Transportation Sales and Use Taxes – Limitations on Taxes Imposed in a County – Amended

Code Section 4-37-60 has been added to allow a county that is imposing a Local Transportation Sales and Use Tax in an amount not to exceed 1% to also impose an additional sales and use tax not to exceed 1% under the Capital Projects Sales Tax Act in Article 3, Chapter 10 of Title 4. Accordingly, the provisions of Code Section 4-37-40, while still prohibiting any portion of a county from imposing a local sales and use tax exceeding 1% pursuant to the Local Transportation Sales and Use Tax and any local legislation enacted by the General Assembly, have been amended to allow the imposition of a Capital Projects Sales and Use Tax not exceeding 1% in a county already imposing a Local Transportation Sales and Use Tax not exceeding 1%.

Code Section 4-10-315 has been added to allow a county that is imposing a Capital Projects Sales and Use Tax in an amount not to exceed 1% to also impose an additional sales and use tax not to exceed 1% under the Local Transportation Sales and Use Tax provisions in Chapter 37 of Title 4. Accordingly, the provisions of Code Section 4-10-310, while still prohibiting any portion of a county from imposing a local sales and use tax exceeding 1% pursuant to the Capital Projects Sales and Use Tax and any local legislation enacted by the General Assembly (with limited exception), have been amended to allow the imposition of a Local Transportation Sales and Use Tax not exceeding 1% in a county already imposing a Capital Projects Sales and Use Tax not exceeding 1%.

Effective Date: May 16, 2022

REENACTED TEMPORARY PROVISOS

The following temporary provisos were enacted in a prior legislative session and were reenacted by the General Assembly in 2022. Temporary provisos are effective for the State fiscal year July 1, 2022 through June 30, 2023, and will expire June 30, 2023, unless reenacted by the General Assembly in the next legislative session.

House Bill 5150, Part IB, Section 117, Proviso 117.146 (Act No. 239)

Agribusiness Facilities – Material Handling and Construction Material Exemptions

This temporary proviso provides that material handling and construction materials for agribusiness facilities that invest at least \$100 million in South Carolina are exempt from state and local sales taxes.

Note: Exemptions implicated by this proviso are Code Section 12-36-2120(51) and Code Section 12-36-2120(67). See SC Revenue Ruling #15-2, “Construction Material Exemption for Manufacturing and Distribution Facilities” and SC Revenue Ruling #13-3, “Material Handling Systems and Material Handling Equipment.”

House Bill 5150, Part IB, Section 50, Proviso 50.20 (Act No. 239)

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 and use tax exemptions associated with the purchase of equipment and construction materials.

Note: Exemptions implicated by these provisos include Code Section 12-36-2120(51) and (67).

House Bill 5150, Part IB, Section 109, Proviso 109.12 (Act No. 239)

Clothing Used in Perishable Prepared Food Manufacturing Facilities

This temporary proviso exempts from sales and use tax certain clothing required by Current Good Manufacturing Practices as set forth in 21 C.F.R. Section 111.10, as it may be amended, used at perishable prepared food manufacturing facilities as defined by the North American Industry Classification System 311991 to prevent health hazards.

Clothing eligible for this exemption includes outer garments, gloves of an impermeable material, hairnets, headbands, beard covers, caps, hair covers or other effective hair restraints, and other attire required pursuant to 21 C.F.R. Section 110.10 for persons working in direct contact with

food, food contact surfaces, and food packaging materials to protect against contamination of food in perishable prepared food manufacturing facilities.

House Bill 5150, Part IB, Section 117, Proviso 117.36 (Act No. 239)

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 5150, Part IB, Section 117, Proviso 117.58 (Act No. 239)

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 5150, Part IB, Section 117, Proviso 117.54 (Act No. 239)

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 an 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.

MISCELLANEOUS (Summarized by Subject Matter)

MISCELLANEOUS TAX LEGISLATION

House Bill 4161 (Act No. 190)

Machines and Devices Prohibited by Law – Exception Added

Code Section 12-21-2710, which makes it unlawful for any person “to keep on his premises or operate or permit to be kept on his premises or operated within this State” certain machines or devices (e.g., “a slot machine, or any video game machine with a free play feature operated by a slot in which is deposited a coin or thing of value, or other device operated by a slot in which is deposited a coin or thing of value for the play of poker, blackjack, keno, lotto, bingo, or craps, or any machine or device licensed pursuant to Section 12-21-2720 and used for gambling ...”), has been amended. The amendment provides an exception to the provisions of Code Section 12-21-2710 and states that the code section does not apply to “the development, manufacture, processing, selling, possessing, provision of technical aid, or transporting of any printed materials, gaming equipment, devices, or other materials, software, or hardware used or designated for use in out-of-state jurisdictions by a gaming device manufacturer.”

For purposes of the exception established in the amendment to Code Section 12-21-2710, a “gaming device manufacturer” is a “manufacturing entity that is in good standing with the South Carolina Secretary of State’s Office, is registered with the United States Department of Justice Gambling Device Registration Unit, is authorized to do business in the State of South Carolina, and has all appropriate business licensure and zoning authorization necessary to operate a manufacturing facility in the jurisdiction in which the manufacturing facility is located.” In addition, “[a]ny transportation of gaming devices authorized in this section must comply with all applicable federal laws. This section may not be construed so as to prohibit communications between persons in this State and persons involved with such legal lotteries or gaming devices relative to such printed materials, equipment, devices, or other materials, software, or hardware.”

Code Section 16-19-50, concerning the unlawful keeping of certain gaming tables and other machines and devices, was also amended to provide an identical exception for “gaming machine manufacturers” as provided in Code Section 12-21-2710.

Effective Date: May 16, 2022

REENACTED TEMPORARY PROVISOS

The following temporary provisos were enacted in a prior legislative session and were reenacted by the General Assembly in 2022. Temporary provisos are effective for the State fiscal year July 1, 2022 through June 30, 2023, and will expire June 30, 2023, unless reenacted by the General Assembly in the next legislative session.

ADMINISTRATIVE and PROCEDURAL MATTERS

House Bill 5150, Part IB, Sections 41 and 117, Provisos 41.2 and 117.82 (Act No. 239)

3% Reduction on Interest Rate on Tax Refunds

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

1. Temporary Proviso 41.2 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.
2. Temporary Proviso 117.82 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 5150, Part IB, Section 109, Proviso 109.14 (Act No. 239)

Certain License or Permit Applications – New Electronic Filing Option under Penalties of Perjury

This temporary proviso provides that the Department may require a statement subject to penalties of perjury instead of a statement under oath for the purpose of allowing certain applications for licenses or permits to be filed electronically.

House Bill 5150, Part IB, Section 109, Proviso 109.15 (Act No. 239)

Advance Referendum Notification by Election Commission to SCDOR

This temporary proviso provides that a county or municipal election commission must notify the Department 60 days prior to a referendum on the imposition of a local sales tax or local option permit.

House Bill 5150, Part IB, Section 109, Proviso 109.6 (Act No. 239)

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

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

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

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

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

MISCELLANEOUS TAX LEGISLATION

House Bill 5150, Part IB, Section 1, Proviso 1.14 (Act No. 239)

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 5150, Part IB, Section 118, Proviso 118.7 (Act No. 239)

Admissions Tax Rebate – Motorsports, Tennis, and Soccer Facilities

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

House Bill 5150, Part IB, Section 33, Proviso 33.10 (Act No. 239)

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.

REMINDERS

The following provisions were enacted prior to 2022 but are being phased in or are effective in 2022 and thereafter. The provisions are summarized below for informational purposes.

MISCELLANEOUS TAXES

House Bill 3516, Section 2 (Act No. 40 of 2017)

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

OTHER ITEMS

House Bill 3516, Section 3 (Act No. 40 of 2017)

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 4431 (Act No. 176 of 2020)

South Carolina Business License Tax Standardization Act – New

The South Carolina Business License Tax Standardization Act was enacted in Article 1, Chapter 1 of Title 6. While this tax related legislation is not under the jurisdiction of the Department, a brief description of new Code Sections 6-1-400, 6-1-410, and 6-1-420 is provided below for general information purposes.

Code Section 6-1-400 defines taxing jurisdiction as a county or municipality levying a business license tax and provides when the tax is due, how the tax rates are determined, how the tax is calculated, and when taxpayers are entitled to refunds. It also provides for a standard business license application and a portal for reporting, calculating, and paying the tax.

Code Section 6-1-410 provides the procedures by which a county or municipality may issue a notice of assessment to a taxpayer for failure to pay a business license tax and defines the

procedures by which the taxpayer may request an adjustment of the assessment, and if not resolved, appeal the notice of final assessment.

Code Section 6-1-420 provides conditions and limitations by which a taxing jurisdiction may contract with third parties to assist them with collecting property or business license taxes, when they can agree to pay these third parties contingent fees and provides a private right of action for violations of this section.

Effective Date: January 1, 2022 for Code Sections 6-1-400 and 6-1-410;
September 30, 2020 for Code Section 6-1-420.

LIST OF TEMPORARY PROVISOS

Temporary provisos were enacted as part of the 2022 annual budget – House Bill 5150, Part IB (Act No. 239). They are effective only for the current State fiscal year (July 1, 2022 – June 30, 2023). They expire on June 30, 2023, unless reenacted by the General Assembly.

The following is 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.

The list is divided by subject matter with the provisos in numeric order.

NEW PROVISOS

Income Taxes

- Proviso 63.10 Law Enforcement Officer of the Year Awards – Not Taxable
- Proviso 117.170 South Carolina Historic Rehabilitation Credit – Certification Fee Waived for Fiscal Year

Sales and Use Taxes

- Proviso 44.10 South Carolina Agriculture Tax Exemption Card (SCATE Card) – Fee Authorized for Card

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 109.13 Renewable Fuel Credit – Placed in Service Date Extended
- Proviso 117.114 Retail Facilities Revitalization Act – Repeal of Act Suspended
- Proviso 118.10 Consumer Protection Services – Individual Income Tax Deduction

Property Taxes

- Proviso 1.46 Index of Taxpaying Ability – Imputed Value for Owner-Occupied Residential Property
- Proviso 92D.1 Improvements to Property Damaged by Catastrophic Weather Event – Time for Improvements for Eligible Events
- Proviso 109.11 Notification of Protest to Affected County and School District

- Proviso 113.7 Agricultural Use Exemption for Timberland – Impact of Additional County Requirements
- Proviso 117.37 Personal Property Tax Relief Fund
- Proviso 117.114 Retail Facilities Revitalization Act – Repeal of Act Suspended

Sales and Use Taxes

- Proviso 50.20 Navy Base Intermodal Facility – Distribution Facility Eligibility
- Proviso 109.12 Clothing Used in Perishable Prepared Food Manufacturing Facilities – New Exemption
- Proviso 117.36 Private Schools – Use Tax Exemption
- Proviso 117.54 Respiratory Syncytial Virus Medicines Exemption – Effective Date
- Proviso 117.58 Viscosupplementation Therapies – Sales and Use Tax Suspended
- Proviso 117.146 Agribusiness Facilities – Material Handling and Construction Material Exemptions

Miscellaneous (Administrative and Procedural Matters, and Miscellaneous Taxes)

Administrative and Procedural Matters:

- Provisos 41.2 and 117.82 3% Reduction on Interest Rate on Tax Refunds
- Proviso 109.6 Voluntary Website Posting of Tax Return Information for Candidates and Gubernatorial Appointees
- Proviso 109.14 Certain License or Permit Applications – New Electronic Filing Option under Penalties of Perjury
- Proviso 109.15 Advance Referendum Notification by Election Commission to SCDOR

Miscellaneous Taxes:

- Proviso 1.14 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