
State of South Carolina
Department of Revenue
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Website Address: <http://www.sctax.org>

SC INFORMATION LETTER #04-3

SUBJECT: Tax Legislative Update for 2003 – Revision
(Income Tax and License Fee)

DATE: February 3, 2004

AUTHORITY: S. C. Code Ann. Section 12-4-320 (Supp. 2000)
S.C. Code Ann. Section 1-23-10(4) (Supp. 2000)
SC Revenue Procedure #03-1

SCOPE: An Information Letter is a written statement issued to the public by the Department to announce general information useful in complying with the laws administered by the Department. **An Information Letter has no precedential value, and is not binding on the public or the Department.**

South Carolina Information Letter #03-20 was issued on September 17, 2003, and briefly summarized most of the significant changes in laws administered by the Department that were enacted by the General Assembly during the past legislative session. This information letter indicated that two bills, Senate Bill 516 and House Bill 3641 had not been signed or vetoed by the Governor. Senate Bill 516 (Act No. 168 of 2004) became law without the Governor's signature on January 16, 2004. House Bill 3641 (Act No. 95 of 2003) was signed by the Governor on September 25, 2003. Attached is a brief summary of Senate Bill 516 and House Bill 3641.

Also attached is a brief summary of a temporary proviso contained in House Bill 3749, Part IB, Section 36, Proviso 36.26 (Act No. 91 of 2003) that was inadvertently omitted from South Carolina Information Letter #03-20, but was summarized in South Carolina Information Letter #04-1.

A complete copy of this legislation can be found at www.scstatehouse.net.

Senate Bill 516, Section 1 (Act No. 168)

Job Tax Credit – “New Job” Includes Certain Transfers to a Manufacturing Facility

Code Section 12-6-3360, providing a job tax credit to a qualifying business creating and maintaining new, full time jobs in South Carolina at the time a new facility or expansion is initially staffed, has been amended. Subsection (M)(3), defining the term “new job,” has been amended to add the following provision to the definition:

Notwithstanding any other provision of law, “new job” includes jobs created by a taxpayer when the taxpayer hires more than 500 full time individuals: (1) at a manufacturing facility located in a county classified as least developed; (2) immediately before their employment by the taxpayer, the individuals were employed by a company operating under Chapter 11 of the United States Bankruptcy Code; and (3) the taxpayer, as an unrelated entity, acquires as of July 10, 2002, substantially all of the assets of the company operating under Chapter 11 of the United States Bankruptcy Code.

Effective Date: Taxable years beginning after 2002, where the job tax credit was earned after June 1, 2002.

Senate Bill 516, Section 2 (Act No. 168)

License Fee Base Modified for Certain Holding Companies

Code Section 12-20-50, imposing an annual license fee on the capital and paid in surplus of a corporation, has been amended. Subsection (C) has been added to provide that a holding company may reduce its paid in capital by the portion of contributions to capital received from its parent corporation that is directly or indirectly used to finance a subsidiary’s expansion costing in excess of \$100 million, which on the date construction is started is located in an Economic Impact Zone as defined in Code Section 12-14-30. A reduction is only allowed for the paid in capital of the holding company attributable to this contribution to capital for expansion.

No reduction is allowed unless the expansion is completed within 3 years of the first contribution to capital received by the holding company. This limitation may be extended by the Department upon written application and for good cause. Amounts previously excluded in paid in capital under this subsection must be included in the first license tax year beginning after the period allowed for the expansion if the expansion is not timely completed.

Effective Date: Applies to increases in capital over the prior year’s capital on January 1, 2003, and thereafter.

House Bill 3641 (Act No. 95)

South Carolina Community Economic Development Act and Community Development Corporation Investment Credit – Provisions Extended

The South Carolina Community Economic Development Act was added to Chapter 43 of Title 12 in the 2000 legislative year and was effective for tax years beginning after 2000. Code Section 12-6-3530 was also added to provide an income tax, bank tax, or insurance premium tax credit equal to 33% of an investment (subject to certain exceptions) in a community development corporation or community development financial institution. These provisions were scheduled to terminate on June 30, 2005, and the laws governing, authorizing, and otherwise dealing with community development corporations and community development financial institutions were deemed repealed on June 30, 2005. This amendment extends the repeal date of these provisions until June 30, 2010.

Effective Date: September 25, 2003

House Bill 3749, Part IB, Section 36, Proviso 36.26 (Act No. 91)

Subsistence Allowance for Law Enforcement, Firefighter, and Emergency Medical Service Personnel – Increase for 2003

The following temporary provision was enacted this legislative session. A temporary proviso is effective for State fiscal year July 1, 2003 through June 30, 2004, and will expire on June 30, 2004, unless reenacted by the General Assembly in the next legislative session.

Code Section 12-6-1140(6) provides a subsistence allowance deduction to federal, state, and local law enforcement officers paid by a political subdivision or the government of South Carolina or the federal government, and to full time firefighters and emergency medical service personnel for each regular work day in the taxable year

For tax year 2003 only, this temporary proviso increased the subsistence deduction allowed under Code Section 12-6-1140(6) from \$5.00 to \$6.67 for each regular work day.