



STATE OF SOUTH CAROLINA  
**DEPARTMENT OF REVENUE**

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P.O. Box 125, Columbia, South Carolina 29214-0575

SC INFORMATION LETTER #21-14

**SUBJECT:** Unemployment Compensation – Partial Exclusion for 2020  
(Income Tax)

**DATE:** May 26, 2021

**MODIFIES:** SC Information Letter #21-7  
SC Information Letter #20-15

**AUTHORITY:** S.C. Code Ann. Section 12-4-320 (2014)  
S.C. Code Ann. Section 1-23-10(4) (2005)  
SC Revenue Procedure #09-3

**SCOPE:** An Information Letter is a written statement issued to the public to announce general information useful in complying with the laws administered by the Department. An Information Letter has no precedential value.

**Overview of Income Tax on Unemployment Compensation**

Under Internal Revenue Code Section 85(a), unemployment compensation is included in gross income and is subject to federal income tax. South Carolina has adopted Internal Revenue Code Section 85.

On March 11, 2021, Congress enacted the American Rescue Plan of 2021.<sup>1</sup> This law added subsection (c), “Special Rule for 2020,” at the end of IRC Section 85 to exclude the first \$10,200 of unemployment compensation per person from federal income for the tax year 2020, for taxpayers with an adjusted gross income of less than \$150,000. The remaining unemployment compensation is taxable income.

The purpose of this Information Letter is to inform taxpayers of South Carolina’s adoption of the federal suspension of tax on a portion of unemployment compensation for tax year 2020.

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<sup>1</sup> Public Law 117-2.

## **Federal Unemployment Compensation Taxability – IRC Section 85(c) Special Exclusion for 2020**

The Internal Revenue Service (IRS) announced on May 14, 2021 in IR-2021-111, that it has identified taxpayers who filed their return prior to the American Rescue Plan becoming law in March and are reviewing those returns to determine the correct taxable amount of unemployment income and tax. This could result in a refund, a reduced balance due, or no change to tax (no refund due nor amount owed). The IRS is making changes automatically in a phased in approach. The IRS will send taxpayers a notice explaining the corrections, which they should expect within 30 days of when the correction is made.

**South Carolina Unemployment Compensation Taxability – Special Exclusion for 2020.** On May 18, 2021, the Governor signed House Bill 4017 (Act No. Unassigned) to adopt the specific tax amendment in the American Rescue Plan that added Internal Revenue Code Section 85(c) to suspend the tax on a portion of unemployment income. House Bill 4017, Section 3, states, in part:

For tax year 2020, the amendment in the American Rescue Plan of 2021, P.L. 117-2 (March 11, 2021) relating to the exclusion from taxable income for tax year 2020 of \$10,200 of unemployment compensation for a taxpayer with less than \$150,000 in federal adjusted gross income is specifically adopted by South Carolina.

As a result of South Carolina’s adoption of this specific federal tax provision in the American Rescue Plan, to the extent that unemployment compensation is excluded for federal income tax purposes for tax year 2020, unemployment compensation is also excluded for South Carolina income tax purposes for tax year 2020.

South Carolina taxpayers who filed their SC1040 prior to May 18, 2021, should review their return to determine if the correct amount of unemployment compensation is reported in federal taxable income, the starting point of the SC1040. To amend a SC1040 for tax year 2020, a taxpayer should file a SC1040 with a Schedule AMD, “Amended Return Schedule.” The “Amended Return” box on the front page of the SC1040 must be checked.

Taxpayers with questions concerning how to amend a 2020 Form SC1040 should contact the Department at 1-844-898-8542 (toll free).

**Note - Taxation of Unemployment Compensation after 2020.** For tax year 2021 and thereafter, unemployment compensation is taxable income since the newly added provision in IRC Section 85(c) is effective for tax year 2020 only. Taxpayers currently receiving unemployment compensation should review their tax situation to determine if they should elect to have South Carolina income tax deducted and withheld from unemployment payments at the rate of 7% or choose to make estimated tax payments.<sup>2</sup> Code Section 41-39-40(A)(5) provides that an individual is permitted to change a previously elected withholding of income at least once. See Information Letter #20-15 for additional information.

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<sup>2</sup> SC Code Section 12-6-3910.