STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 12265, Columbia, South Carolina 29211

SC REVENUE RULING #19-1

SUBJECT:	State Tax Deduction for Individuals who Itemize Deductions (Income Tax)
EFFECTIVE DATE:	Tax years beginning January 1, 2018 through December 31, 2025
REFERENCES:	S.C. Code Ann. Section 12-6-1130(2) (2014) Internal Revenue Code Section 164(b)(6)
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:	The purpose of a Revenue Ruling is to provide guidance to the public. It is an advisory opinion issued to apply principles of tax law to a set of facts or general category of taxpayers. It is the Department's position until superseded or modified by a change in statute, regulation, court decision, or another Department advisory opinion.

BACKGROUND

Internal Revenue Code (IRC) Section 164 provides a deduction of certain taxes, paid or accrued for federal income tax purposes. Pursuant to Code Section 12-6-1130(2), South Carolina adopts IRC Section 164 with the following modifications:

> (2) The deduction for taxes permitted by Internal Revenue Code Section 164 is computed in the same manner as provided in Section 164 except there is no deduction for state and local income taxes, state and local franchise taxes measured by net income, other income taxes, or taxes measured with respect to net income. In addition, if a taxpayer elects, pursuant to Section 164, to deduct state and local sales taxes instead of state and local income taxes, the taxpayer may not deduct state and local sales and use taxes.
>
> This modification is limited for individual taxpayers to the excess of itemized deductions over the standard deduction that would be allowed if the taxpayer had used the standard deduction for federal income tax purposes.

Prior to the federal Tax Cuts and Jobs Act of 2017 (TCJA), IRC Section 164 provided a deduction for the following taxes paid or accrued during the tax year:

- State, local and foreign income taxes;
- State and local sales taxes[1] in lieu of deducting state and local income taxes;
- State, local and foreign real property taxes;
- State and local personal property taxes; and
- Generation-skipping transfer taxes imposed on income distributions.

FEDERAL AND STATE ITEMIZED TAX DEDUCTIONS AFTER THE TCJA

The TCJA amended IRC Section 164 for tax years beginning January 1, 2018 through December 31, 2025 by adding IRC Section 164(b)(6) to limit the individual federal itemized tax deduction to a combined, total deduction of $10,000 ($5,000 if "Married Filing Separate") for the following taxes:

- State and local income taxes; or
- State and local general sales taxes deducted in lieu of state and local income taxes; and
- State and local real and personal property taxes.[2]

The dollar limit applies to the combined total deduction claimed as an itemized deduction on the Federal Form 1040, Schedule A.[3]

---

[1] The IRC defined the term "general sales tax" as a tax imposed with respect to the sale at retail of a broad range of classes of items. IRC Section 164(b)(5)(B). This definition would include South Carolina's use tax.

[2] Foreign real property taxes are no longer deductible as an itemized deduction for tax years beginning in 2018 through 2025. Also, the federal limit does not apply to foreign income taxes; however, these taxes are not deductible for South Carolina income tax purposes under Code Section 12-6-1130(2).

[3] The limit does not apply to state and local property taxes paid or accrued in carrying on a trade or business or on property held for the production of income pursuant to IRC Sections 162 and 212. These state and local property taxes are not itemized deductions allowed on the individual's Federal Form 1040, Schedule A, but may be deducted on the individuals' Federal Form 1040, Schedules C, E or F, as appropriate. As a result, these property taxes in excess of $10,000 are deductible for South Carolina income tax purposes.

Under the South Carolina Taxpayer Protection and Relief Act, South Carolina conformed to the IRC as of February 9, 2018, adopting most of the IRC changes enacted in the TCJA, including the $10,000 ($5,000 if "Married Filing Separate") tax deduction limitation.

Prior to the TCJA, for federal purposes individuals could deduct the entire amount paid of either state and local individual income tax or state sales tax, but not both, along with state and local property taxes paid. For tax years beginning January 1, 2018, for federal income tax purposes, individuals who itemize are limited to deducting a total of $10,000 among state and local property and income taxes (or sales taxes if deducted instead of state and local income taxes).

South Carolina does not allow a deduction for state and local income taxes. Additionally, if under IRC Section 164 a taxpayer elects to deduct state and local sales taxes instead of state and local income taxes, the taxpayer may not deduct state and local sales taxes for South Carolina income tax purposes. Code Section 12-6-1130(2). As a result, if a taxpayer itemized deductions on his federal income tax return and deducted state and local income taxes or general sales taxes, the taxpayer may be required to add back all or a portion of this amount to federal taxable income when computing South Carolina taxable income. This document provides guidance on how the state tax addback should be calculated for South Carolina income tax purposes.

STATE TAX ADDBACK CALCULATION

If a taxpayer itemized deductions in calculating his federal income tax, a state tax addback may be required for South Carolina. The addback is the lesser of the following:

- Itemized deductions in excess of the standard deduction that would have been allowed if the taxpayer had used the standard deduction for federal income tax purposes;[4]
- State and local income taxes or general sales taxes deducted on the Federal Form 1040, Schedule A; or
- The $10,000 federal tax deduction limit less deductible property taxes.

In determining the state tax addback for taxpayers whose deduction is limited to $10,000, the taxpayer may first apply real or personal property taxes reported on Federal Schedule A before applying state and local income taxes.

[4] The standard deductions for 2018 are generally $24,000 (married filing jointly or surviving spouse); $18,000 (head of household); and $12,000 (single or married filing separate). These amounts will be indexed for inflation in subsequent years and are available on the IRS website (www.irs.gov).

EXAMPLES

The examples below illustrate the state tax addback on the SC 1040 for a single taxpayer under different scenarios who would be allowed a standard deduction of $12,000 had he not itemized.

Example 1 below illustrates the state tax addback amount is the excess of itemized deductions over the standard deduction.

Example 2 below illustrates the state tax addback amount is the amount of state income taxes. In this example total taxes are less than the $10,000 federal deduction limit.

Example 3 below illustrates the state tax addback is determined by the $10,000 federal tax deduction limitation reduced by property taxes. In this example total taxes are more than the $10,000 federal deduction limit.

Calculation of State Tax Addback Based on Illustrated Amounts	**Ex. 1**	**Ex. 2**	**Ex. 3**
1. Itemized Deductions	18,000	23,000	23,000
2. Standard Deduction	12,000	12,000	12,000
3. Itemized Deductions in excess of Standard Deduction	6,000	11,000	11,000
4. State and local income taxes or sales taxes (Federal 1040, Schedule A)	7,000	5,000	5,000
5.A. Federal tax deduction limitation ($10,000)	10,000	10,000	10,000
5.B. State and local real estate and personal property taxes on Federal 1040, Schedule A	2,000	4,000	9,000
5.C. Limitation in excess of deductible property taxes (5.A. minus 5.B.)	8,000	6,000	1,000
6. State tax addback on SC 1040 (the lesser of lines 3, 4, and 5.C. above)	6,000	5,000	1,000

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/W. Hartley Powell
W. Hartley Powell, Director

March 8, 2019
Columbia, South Carolina