



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 125, Columbia, South Carolina 29214-0575

SC REVENUE RULING #21-2

SUBJECT: Internal Revenue Code Section 163(j) (Income Tax)

EFFECTIVE DATE: Tax Years Beginning on or after January 1, 2018

SUPERSEDES: All previous advisory opinions and any oral directives in conflict herewith.

REFERENCES: S.C. Code Ann. Section 12-6-50 (Supp. 2019)

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 and Department personnel. 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 It is the Department's position until superseded or modified by a change in statute, regulation, court decision, or another Department advisory opinion.

OVERVIEW OF INTERNAL REVENUE CODE SECTION 163(j)

For tax years beginning before January 1, 2018, Internal Revenue Code Section 163(j) limited business interest expense deductions for certain interest paid or accrued by corporations. IRC Section 163(j) was significantly altered and expanded to become a limitation on business interest expense deductions by the Tax Cuts and Jobs Act of 2017 (TCJA).¹ In addition to the yearly business interest expense limitation, IRC Section 163(j) contains interest expense carryforward provisions for interest expense it disallows. These changes made by the TCJA were effective for tax years beginning after December 31, 2017.

¹ Pub. Law 115-97. IRC Section 163(j) was further amended by the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. Law 116-136) enacted March 27, 2020, and in part, temporarily increased the business interest expense limitation from 30% to 50% for tax years beginning in 2019 and 2020. As of December 2020, South Carolina has not adopted the CARES Act.

SOUTH CAROLINA TAX TREATMENT

South Carolina's adoption of the Internal Revenue Code is not automatic and is not all inclusive. Prior to the enactment of the federal changes in the Tax Cuts and Jobs Act in December 2017, South Carolina adopted the IRC Section 163(j) corporate interest expense limitation for purposes of calculating South Carolina taxable income. On October 13, 2018, South Carolina's General Assembly enacted "The South Carolina Taxpayer Protection and Relief Act."² This Act did not adopt all of the federal changes and provisions enacted in the Tax Cuts and Jobs Act of 2017. It specifically did not adopt IRC Section 163(j) relating to limitation on business interest expense and IRC Sections 381(c)(20) and 382(d)(3) relating to the carryover of limited business interest in IRC Section 163(j)(2). See Section 3.A. of SC 2018 Act 266 and Code Section 12-6-50(5B).

As a result, for tax years beginning in 2018, South Carolina's tax treatment of a business interest expense deduction under IRC Section 163(j) decouples from the federal tax treatment. South Carolina's tax treatment is as follows:

Limitation on Business Interest Expense. For tax years beginning after 2017, South Carolina does not limit the business interest expense deduction under IRC Section 163(j). Eligible taxpayers may deduct 100% of their business interest expense, without regard to IRC Section 163(j), in calculating their South Carolina taxable income each year.

Interest Expense Carryforward Provisions. Since South Carolina no longer adopts IRC Section 163(j), the carryforward provisions in IRC Section 163(j) are no longer adopted for tax years beginning after December 31, 2017. As a result, any interest expense carryforward from years beginning before 2018 cannot be deducted.

Summary. For tax years beginning after 2017, there is no South Carolina business interest tax limitation and no carryforward. Any interest expense that cannot be deducted against income in the year incurred may create a South Carolina net operating loss. Any federal interest expense carryforward allowed for federal income tax purposes is disallowed for South Carolina income tax purposes and is treated as an addition to South Carolina taxable income.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/W. Hartley Powell

W. Hartley Powell, Director

January 26, 2021
Columbia, South Carolina

² 2018 Act 266.