

Statement of Estimated State Revenue Impact

Date: March 29, 2011

Bill Number: H.B. 3592

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Committee Requesting Impact: House Ways & Means Committee

Bill Summary

A bill to amend Section 12-6-3415, as amended, of the Code of Laws of South Carolina, 1976, relating to the tax credit for research and development, so as to provide that a taxpayer with less than one hundred fifty full-time employees may claim the entire credit in one year and if the credit exceeds the taxpayer's liability, the Department of Revenue shall refund a certain remaining portion of the credit.

REVENUE IMPACT ^{1/}

This bill is expected to reduce General Fund income tax and corporation license tax revenue by an estimated \$500,000 in FY2011-12 and by an estimated \$5,000,000 in FY2012-13, and each fiscal year thereafter.

Explanation

A taxpayer that claims a federal income credit pursuant to Section 41 of the Internal Revenue Code for increasing research activities for a taxable year is allowed a tax credit against state income taxes or state corporate license taxes equal to five percent of a taxpayer's qualified research expenses. The types of qualified research expenses include in-house research expenses, such as wages paid to an employee, expenses for supplies of tangible property, and services engaged in the direct support of research activities. It also includes contract research expenses paid to someone other than the taxpayer for research related activities. This bill would amend Section 12-6-3415 to allow a taxpayer that employs less than one hundred fifty full-time employees to claim a tax credit in excess of a taxpayer's tax liability. According to the S.C. Department of Workforce and Employment this represents 98.5 percent of employers in the state. The Department of Revenue must refund the remaining portion of the credit up to seventy-five percent of the taxpayer's liability. The total aggregate amount of tax refunds for all taxpayers may not exceed \$5,000,000 in a year. If total refund claims exceed \$5,000,000 in a year, the Department of Revenue will reduce each taxpayer's refund by a proportionate amount. A taxpayer may carry forward any refund earned but not refunded to the taxpayer for the next ten taxable years. According to the latest data from the Department of Revenue, 138 taxpayers claimed research and development tax credits against taxable liability totaling \$16,098,321 in tax year 2008. The Department of Revenue has advised us there is currently \$34,558,777 of research expense income tax credit carry forwards on the books. Combining the requirement that the Department of Revenue must refund the remaining portion of the credit up to seventy-five percent of the taxpayer's liability and the total aggregate amount of tax refunds for all taxpayers may not exceed \$5,000,000 in a year, there are sufficient carry forwards to refund a portion of tax credits up to the annual cap limit of \$5,000,000. This act takes effect upon approval by the Governor and applies to tax years beginning after December 31, 2011. In anticipation of this tax change, we expect that 10 percent of taxpayers will adjust their income tax withholdings to account for a portion of the refund owed them. This bill, therefore, is expected to reduce General Fund income tax and corporation license tax revenue by an estimated \$500,000 in FY2011-12 and by an estimated \$5,000,000 in FY2012-13, and each fiscal year thereafter.



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^{1/} This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact of Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.