



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 INFORMATION LETTER #19-7

SUBJECT: Summary of South Carolina Individual Income Tax Conformity to the Internal Revenue Code through February 9, 2018 (Income Tax)

DATE: March 13, 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: 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.

INTRODUCTION

On October 3, 2018, the General Assembly enacted the “SC Taxpayer Protection and Relief Act” (SC Act)¹. The SC Act adopts many of the federal tax changes and new tax provisions enacted in the Tax Cuts and Jobs Act of 2017 (TCJA)², as well as relevant federal tax “extender” provisions in the Bipartisan Budget Act of 2018 (Bipartisan Budget Act)³ and disaster relief provisions in the Disaster Tax Relief and Airport and Airway Extension Act for 2017 (Disaster Tax Relief Act)⁴ and the Bipartisan Budget Act.

The SC Act also includes a new South Carolina deduction for dependents, a special deduction for dependents under age six, income tax bracket adjustments, and other modifications to the federal income tax laws.⁵

¹ SC Act No. 266

² Public Law 115-97

³ Public Law 115-123

⁴ Public Law 115-63

⁵ This Information Letter does not include a complete discussion of South Carolina income tax changes and does not discuss any new South Carolina income tax credits. For a summary of the SC Act, see the Department’s publication “Tax Legislative Update for 2018” available on the Department’s website at www.dor.sc.gov under Tax Professionals, Law and Policy.

This Information Letter provides a summary of South Carolina conformity with Internal Revenue Code (IRC) sections affecting individual taxpayers. A chart of the individual tax provisions in the TCJA and whether or not South Carolina adopts the IRC section is attached.⁶ This summary is written in general terms and does not contain all of the specific requirements or details of the code sections. It should not be relied on as a substitute for researching original sources of authority.

MAJOR FEDERAL TAX LEGISLATION

Tax Cuts and Jobs Act of 2017

TCJA is the most comprehensive federal tax reform in over 30 years. This law made major changes to the taxation of individuals. Although some of the changes are permanent, most are effective for tax years beginning in 2018 through 2025.⁷ For individuals, TCJA provides lower income tax rates and new tax brackets, increases the standard deduction, suspends personal exemptions, limits the state and local tax deduction, temporarily reduces the medical expense threshold, and eliminates miscellaneous itemized deductions, as well as many other changes.

IRC Sections Extended in the Bipartisan Budget Act of 2018

The Bipartisan Budget Act extended a number of IRC sections that are adopted by South Carolina through December 31, 2017.⁸ Those extensions include:

1. Provide an income exclusion for qualified principal residence indebtedness discharged before January 1, 2018 or subject to an arrangement that is entered into and evidenced in writing before January 1, 2018 (IRC §108(a)(E));
2. Allow mortgage insurance premiums to be treated as qualified residence interest that is deductible for premiums paid or accrued before January 1, 2018 or subject to an arrangement entered into and evidenced by writing before January 1, 2018 (IRC §163(h)(3)(E)(iv); and
3. Allow a deduction for qualified tuitions and related expenses for tax years beginning before December 31, 2017 (IRC §222(e)).

Disaster Relief Provisions in TCJA, Disaster Tax Relief Act, and Bipartisan Budget Act

The TCJA, Disaster Tax Relief Act, and Bipartisan Budget Act each provide disaster tax relief for taxpayers.

⁶ The chart does not include corporate or other business tax changes that may affect individual taxpayers such as changes involving expensing, depreciation, and business deductions.

⁷ The language in the IRC reads for tax years beginning after January 31, 2017 and before January 1, 2026. For simplicity this document refers to tax years beginning in 2018 through 2025.

⁸ At the time of issuance of this document, Congress had not extended these provisions through 2018; however, the Tax Extender and Disaster Relief Act of 2019 was introduced in the U.S. Senate in March of 2019. If enacted, this bill would extend these, as well as other provisions, through 2019. At the time of the publication of this Information Letter, proposed legislation in S.C. House Bill 3985 provides that if Congress extends these federal provisions for 2018, South Carolina will extend them in the same manner.

The TCJA provides tax relief for major disaster areas declared by the President during 2016, including some parts of South Carolina as a result of Hurricane Matthew. The TCJA allows special tax treatment for the deduction of personal casualty losses and hardship withdrawals from qualified retirement plans associated with the declared disaster areas including those in South Carolina.

The Disaster Tax Relief Act applies to Hurricanes Harvey, Irma, and Maria in areas declared a major disaster by the President before September 21, 2017. The Disaster Tax Relief Act provides much of the same tax relief as the TCJA for calculating personal casualty losses and hardship withdrawals from qualified retirement plans. As of September 21, 2017, no area in South Carolina had been declared a major disaster area, but the Bipartisan Budget Act expanded the tax relief in the Disaster Relief Act to parts of South Carolina affected by Hurricane Irma.

Finally, the Internal Revenue Service issued a proposed rule on November 14, 2018, with proposed amendments to regulations dealing with hardship distributions from qualified retirement plans for victims of Hurricanes Michael and Florence similar to those provided under the TCJA, Disaster Tax Relief Act, and Bipartisan Budget Act. South Carolina taxpayers can follow this proposed rule to the extent allowed for federal income tax purposes as it applies to IRC sections adopted by South Carolina.⁹

Many of the provisions in these Acts that deal with disaster relief are temporary amendments to IRC sections that South Carolina adopts in Code §12-6-50. These temporary amendments are, therefore, also adopted for South Carolina income tax purposes in the same manner they are allowed for federal income tax purposes.¹⁰

South Carolina does not adopt IRC §§72(m)(5)(B), 72(f), 72(o), 72(q), and 72(t) relating to penalties on certain retirement plan distributions regardless of whether the funds are withdrawn due to disaster relief or for any other purpose. The federal rules related to penalties for hardship withdrawals vary and should be reviewed prior to obtaining a withdrawal, but South Carolina will not impose penalties under the sections listed above.

The Internal Revenue Service has numerous resources on its website about disaster relief, including information specific to each disaster which identifies counties within each state that have been declared disaster areas entitled to tax relief.¹¹

⁹ See, IRS News Release IR-2018-236, November 29, 2018 (references IRS Announcement 2017-15 which provides information on Hurricane Florence); “Hardship Distribution of Elective Contributions, Qualified Matching Contributions, Qualified Non-elective Contributions, and Earnings” (Proposed rule by the IRS on November 14, 2018). Additionally, The Tax Extender and Disaster Relief Act of 2019 was introduced in the U.S. Senate in March of 2019 that would extend these disaster relief provisions for major disasters occurring in 2018. At the time of the publication of this Information Letter, proposed legislation in S.C. House Bill 3985 provides that if Congress extends these federal provisions for 2018, South Carolina will extend them in the same manner.

¹⁰ Some of these provisions require amendments to retirement plan documents. To the extent plan amendments are required for federal income tax purposes, they are also required for South Carolina income tax purposes under the same terms.

¹¹ IRS website is www.irs.gov. Disaster relief information is under the “news” section. The website provides information for victims of various disasters under “Tax Relief in Disaster Situations.” See also, IRS Publication 976 “Disaster Relief for 2017”.

SOUTH CAROLINA FEDERAL INCOME TAX CONFORMITY IN 2018

Introduction

South Carolina's adoption of the IRC is not automatic and is not all inclusive. The October 3, 2018 SC Act amends Code §12-6-40(A)(1)(a) to update South Carolina's income tax laws to conform to the IRC as amended through February 9, 2018 and includes the effective date provisions contained therein.

Code Section 12-6-50 was amended to add the following provisions to the list of IRC sections specifically not adopted by South Carolina.

1. IRC §118(b)(2) relating to the tax treatment of contributions by government entities or civic groups;
2. IRC §162(r) relating to the deduction of FDIC premiums;
3. IRC §163(j) relating to limitation on business interest expense and IRC §§381(c)(20) and 382(d)(3) relating to the carryover of limited business interest in IRC §163(j)(2);
4. IRC §199A relating to the qualified business income deduction; and
5. IRC §§250 and 267A relating to the taxation of foreign income.

Other South Carolina Income Tax Law Changes in 2018

In addition to IRC conformity discussed above, other changes to South Carolina individual income tax in 2018 include:

1. A new South Carolina dependent exemption equal to \$4,110 for tax year 2018 (indexed for inflation in future years) for each eligible dependent of the taxpayer, including both qualifying children and qualifying relatives. Dependents must meet the eligibility requirements of IRC §§151 and 152 for a qualifying child or relative, as those sections applied on January 1, 2017. Code §12-6-1140(13).
2. A deduction for dependents under the age of 6 equal to the dependent exemption amount of \$4,110 for tax year 2018 (indexed for inflation in future years). Code §12-6-1160.
3. Income tax brackets inflation adjustment using the chained consumer price index for all consumers (adjustment may not exceed 4% a year). Code §12-6-520.

For other tax provisions affecting individuals that are not part of IRC conformity, including temporary provisos and tax credits see "South Carolina Tax Legislative Update for 2018" published by the Department.¹²

¹² See footnote #5.

**INDIVIDUAL INCOME TAX
TAX CUT AND JOBS ACT OF 2017 AND
SOUTH CAROLINA INCOME TAX CONFORMITY
AS OF FEBRUARY 8, 2018**

Unless otherwise indicated, these code sections are effective for tax years beginning in 2018 through 2025.¹³ This chart is written in general terms and does not contain all of the specific requirements or details of the code sections. It should not be relied on as a substitute for researching original sources of authority.

IRC Code Section	Description	New Federal Law	SC Treatment
IRC §1(j)	Tax rates for individuals	Lowered the federal tax rates to 15% - 39.6%.	SC does not adopt federal tax rates. SC Code §12-6-50(1). SC Code §12-6-510 provides SC tax rates of 3% - 7% and §12-6-545 provides a 3% tax rate on pass-through active trade or business income.
IRC §24	Child tax credit	Increases child care tax credit.	SC does not adopt IRC §24. SC Code §12-6-50(2).
IRC §55	Individual alternative minimum tax	Changes the alternative minimum tax exemption amounts and increases the phase-out exemption amounts.	SC does not adopt IRC §55. SC does not have an alternative minimum tax. SC Code §12-6-50(3).
IRC §63(c)(7)	Standard deduction	Increases the standard deduction. The 2018 amounts are: Single - \$12,000 Head of Household - \$18,000 Married filing jointly or Qualifying widow(er) - \$24,000 Additional standard deduction for individuals over 65 or blind allowed based on prior law. The 2018 amounts are: \$1,600 for single and \$1,300 for married or surviving spouse (for each qualification).	SC adopts IRC §63.

¹³ **CAUTION:** Because these items are suspended, but not repealed, the full code sections, including parts that are suspended, remain in the IRC. When reviewing the IRC provisions that are suspended, the language of the original code section remains and the suspension language is generally in the last paragraph of the code section.

IRC Code Section	Description	New Federal Law	SC Treatment
IRC §67(g)	<p>Miscellaneous itemized deductions subject to 2% floor</p> <p>Note: The \$250 exclusion from gross income for certain teacher expenses is not a miscellaneous itemized deduction and is deductible in calculating adjusted gross income . IRC §62(a)(2).</p>	Suspends all miscellaneous itemized deductions subject to the 2% floor. Examples of miscellaneous itemized deductions include professional dues, job-hunting expenses, uniforms and special clothing for job, and expenses paid for production of income, such as investment expenses.	SC adopts IRC §67.
IRC §68(f)	Overall limitation on itemized deductions	Suspends the federal limitation on itemized deductions.	<p>SC does not adopt IRC §68.</p> <p>SC did not limit itemized deductions under IRC §68 under prior law. SC Code §12-6-50(17).</p>
<p>IRC §71 - repealed (Note: IRC §71 will continue to apply to divorce decrees and separation agreements executed <u>before</u> 12/31/2018.)</p> <p>See also, IRC §215 below for alimony and separate maintenance payment deduction for payer.</p>	<p>Alimony and separate maintenance payments included in recipient's gross income</p> <p>Permanent provision</p>	IRC §71 was repealed with respect to divorce or separation instruments executed <u>after</u> 12/31/2018. For instruments executed after 12/31/2018 alimony and separate maintenance payments are not included in recipient's gross income.	SC adopts IRC §71.
IRC §§72, 165, and various deferred compensation provisions from IRC §§401 through 414.	Relief for 2016 disaster areas	See disaster relief discussion in text above.	See disaster relief discussion in text above.
IRC §83(i)	<p>Qualified equity grants</p> <p>Permanent provision</p>	Allows employees of certain start-up companies to make a special election with respect to qualified stock transferred to them so that no amount is included in income for the first taxable year until the earlier of five years or certain other events.	SC adopts IRC §83.

IRC Code Section	Description	New Federal Law	SC Treatment
IRC §108(f)(5)	Discharge of student loan indebtedness	For 2018 through 2025, student loan debt discharged on account of death or total and permanent disability of student is excluded from gross income.	SC adopts IRC §108.
IRC §112	Treatment of certain individuals performing services in Sinai Peninsula of Egypt	Grants combat zone tax benefits to Sinai Peninsula of Egypt.	SC adopts IRC §112. See also, SC Rev. Proc. #08-3.
IRC §132(a)(6) and (g)(2) See also, IRC §217 below.	Income exclusion for qualified moving expense reimbursements	Suspends the exclusion from gross income for qualified moving expense reimbursements under IRC §132(a)(6). The exclusion is still available for active duty members of military who move pursuant to a military order and incident to a permanent change of station.	SC adopts IRC §132.
IRC §§132(f)(8), 274(a)(4)	Qualified transportation fringe benefits – qualified bicycle commuting reimbursement	Suspends exclusion from gross income for any qualified bicycle commuting reimbursement and disallows the expense deduction for any such reimbursement.	SC adopts IRC §§132 and 274.
IRC §151(c) and (d)(5) IRC§152-dependent defined	Personal exemptions	Suspends federal personal exemptions for the taxpayer, spouse, and dependents.	SC adopts IRC §§151 and 152. There is no South Carolina personal exemption for taxpayer or taxpayer's spouse. SC Code §§12-6-1140 and 12-6-1160 provide: <ul style="list-style-type: none"> ▪ A SC exemption of \$4,110 for each eligible dependent (both children and qualifying relatives) that meet the eligibility requirements of IRC §§151 and 152 as those sections applied on January 1, 2107.
Continued			

IRC Code Section	Description	New Federal Law	SC Treatment
<p>Continued</p> <p>IRC §151(c) and (d)(5)</p> <p>IRC§152-dependent defined</p>	<p>Personal exemptions</p>	<p>Suspends federal personal exemptions for the taxpayer, spouse, and dependents.</p>	<ul style="list-style-type: none"> ▪ An additional SC deduction equal to the dependent exemption amount for children who have not reached age six during the tax year. ▪ The SC exemptions will be indexed for inflation using the Chained Consumer Price Index beginning in 2019.
<p>IRC §162(a)</p>	<p>Living expenses for members of Congress</p> <p>Permanent provision</p>	<p>Eliminates the \$3,000 deduction of living expenses for members of Congress for tax years beginning after 12/22/2017.</p>	<p>SC adopts IRC §162.</p>
<p>IRC §163(h)(3)(F)</p>	<p>Mortgage interest deduction</p>	<p>For 2018 through 2025, the mortgage interest deduction is limited to interest on \$750,000 (\$375,000 for married filing separately) for debt incurred after 12/15/17. (Prior to the change the interest deduction was limited to interest on \$1 million.) Interest can be from principal residence and one other residence.</p> <p>After 2025, the limitation returns to \$1 million (\$500,000 for married filing separately) regardless of when the debt was incurred.</p> <p>Suspends mortgage interest deduction for home equity indebtedness with certain exceptions for refinanced indebtedness.</p>	<p>SC adopts IRC §163.</p>

IRC Code Section	Description	New Federal Law	SC Treatment
IRC §164(b)(6)	State and local tax deduction	For 2018 through 2025, individuals can only deduct state and local sales, personal income taxes, or property taxes up to \$10,000.	<p>SC adopts §164 except SC does not allow individuals to deduct state and local income taxes (or state and local sales and use taxes deducted instead of state and local income taxes if the taxpayer made the election under IRC §164). These taxes may be added back in calculating SC taxable income. SC Code §12-6-1130(2).</p> <p>Note: There is no SC ordering rules for tax deductions. As a result, if the taxpayer deducted \$10,000 of state income taxes for federal purposes and was, therefore, not able to deduct property taxes for federal purposes, the taxpayer could add back the state income taxes deducted for federal purposes and deduct their property taxes up to \$10,000. SC Rev. Rul. #19-1.</p>
IRC §165(d)	Limitation on wagering losses	Suspends certain deductions available to professional gamblers such as transportation, lodging, and admission fees except to the extent of gambling winnings.	SC adopts IRC §165.
IRC §165(h)(5)	Personal casualty losses	Suspends personal casualty losses except those losses incurred as a result of federally-declared disasters as determined by the President to warrant federal assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.	SC adopts IRC §165.

IRC Code Section	Description	New Federal Law	SC Treatment
IRC §170	Charitable contribution deductions		SC adopts IRC §170.
IRC §170(b)(1)(G)	Temporary provision	For 2018 through 2025, AGI limitation on cash contributions increases from 50% of AGI to 60% of AGI for contributions.	
IRC §170(l)(1)	Permanent provision	Repeals the deduction for 80% of contributions related to university athletic seating rights.	
IRC §170(f)(8)(D) Repealed	Permanent provision	Repeals provision that allowed IRS to issue regulations that provided taxpayers did not need to substantiate contributions of less than \$250 if the donee organization filed a return providing information required by the substantiation rules.	
Note: Due to IRC renumbering, there is a new IRC §170(f)(8)(D) which is different from the repealed provision.			
IRC §199A	Pass-through tax treatment – 20% deduction for qualified business income	For 2018 through 2025, a special deduction is allowed to taxpayers for “qualified business income” from pass-through entities.	SC does not adopt IRC §199A. SC Code §12-6-50(19). SC Code §12-6-545 provides a 3% tax rate on pass-through active trade or business income. See, SC Rev. Rul. #08-2.
IRC §212	Expenses for production of income, including tax preparation fees Note: Tax preparation fees associated with a trade or business are still deductible under IRC §162.	Suspends deduction for expenses for production of income under IRC §212. These expenses are miscellaneous itemized deductions subject to 2% of AGI that are not deductible for tax years 2018 through 2025. See, Regulation §1.67-1T for regulation on 2% floor for miscellaneous itemized deductions.	SC adopts §§212, 67, and 162.

IRC Code Section	Description	New Federal Law	SC Treatment
IRC §213(f)	<p>Medical expense deduction</p> <p>Permanent provision after 2018</p> <p>Note: Federal Legislation was introduced in the US Senate in March of 2019 to extend the 7.5% limitation through 2019.</p>	<p>For 2013 through 2016, taxpayers age 65 and older could deduct medical expenses in excess of 7.5% of AGI.</p> <p>For 2017 through 2018, any age taxpayer could deduct medical expenses in excess of 7.5% of AGI.</p> <p>After 2018, any age taxpayer can deduct medical expenses in excess of 10% of AGI.</p>	SC adopts IRC §213.
<p>IRC §215 - repealed</p> <p>Note: IRC §215 will continue to apply to divorce decrees and separation agreements executed <u>before</u> 12/31/2018.</p> <p>See also, IRC §71 above for inclusion in income by recipients of alimony and separate maintenance payments.</p>	<p>Alimony payment deduction</p> <p>Permanent provision</p>	<p>For divorce decrees and separation agreements executed <u>after</u> 12/31/2018, alimony paid is not deducted from income.</p> <p>For divorce decrees or separation agreements executed <u>before</u> 12/31/2018 but modified after that date, alimony received would not be included in income and alimony paid would not be deductible if the modification expressly provides that the amendments to this section apply to the modification.</p>	SC adopts IRC §215.
<p>IRC §217(k)</p> <p>See also, IRC §132 above</p>	<p>Moving expenses deduction</p>	<p>Suspends the deduction for moving expenses (except for active duty military that move pursuant to military order or permanent change of station under IRC §217(g)).</p>	SC adopts IRC §217.

IRC Code Section	Description	New Federal Law	SC Treatment
IRC §274(j)(3)(A)(ii)	Employee achievement awards Permanent provision	For amounts paid or incurred after 12/31/2017, certain employee achievement awards are not defined as tangible personal property and are included in income, e.g. cash, cash equivalents, gift certificates, vacations, meals, lodging, tickets to the theater or sporting events, stocks, bonds, and similar items.	SC adopts IRC §274.
IRC §402(c)(3)(C)	Rollovers of plan loan offsets Permanent provision	Allows an employee with a loan from an employer sponsored retirement plan until the due date for filing the employee's tax return for that year (including extensions) to contribute the loan balance to an IRA to avoid having the loan amount treated as a taxable distribution. Applies to employees whose plans terminated or who leave employment while having a plan loan outstanding.	SC adopts IRC §402.
IRC §408A(d)(6)(B)(iii)	Roth IRAs Permanent provision	Eliminates the rule that allowed a traditional IRA to be converted to a Roth IRA and then allowed the taxpayer to recharacterize the Roth conversion contribution as a contribution to a traditional IRA until Oct. 15 of the following year.	SC adopts IRC §408A.
IRC §457(e)(11)(B)	Length of service awards for public safety volunteers Permanent provision	Special rules for a deferred compensation plan paying solely length of service awards to bona fide volunteers (or their beneficiaries) on account of qualified services performed by the volunteers. The aggregate amount of service awards increases from \$3,000 to \$6,000 (adjusted for inflation).	SC adopts IRC §457.

IRC Code Section	Description	New Federal Law	SC Treatment
IRC §529(c)(7)	Expands use of 529 Plans Permanent provision	Expands 529 plans to allow \$10,000 per year for tuition per designated beneficiary (regardless of the number of plans involved) in connection with enrollment in an elementary or secondary public, private or religious schools. IRS guidance provides that elementary school includes kindergarten. (IRS Notice 2018-58).	SC adopts IRC §529.
IRC §529(c)(3)(C)(i)(III)	Rollovers from 529 plans to qualified 529A plans (ABLE Plans)	Allows a tax free rollover from a 529 plan to a qualified 529A plan (ABLE Plan) before January 1, 2026.	SC adopts IRC §529.
IRC §529A	Contributions to ABLE accounts Permanent provision	Allows additional contributions to ABLE accounts from the account's designated beneficiary up to the lesser of (a) the beneficiary's compensation for the tax year or (b) the federal poverty line for a one-person household. (Prior law only allowed a contribution from all contributors, including the beneficiary, up to the amount of the annual gift tax exclusion which was \$15,000 in 2018.)	SC adopts IRC §529A. See also SC Code §12-6-1140(12).
IRC §6343	IRS levies Permanent provision	Extends certain time limitations associated with IRS levies.	SC does not adopt IRC §6343. SC Code §12-6-50(16). SC levy provisions can be found in Chapter 54 of Title 12.