



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number:	S. 0545	Signed by Governor on September 28, 2020
Author:	Alexander	
Subject:	Property Assessment of Merchants and Other Businesses	
Requestor:	Senate	
RFA Analyst(s):	Jolliff and Miller	
Impact Date:	November 20, 2020	

Fiscal Impact Summary

State Expenditure and Revenue

This bill will have no impact on State expenditures as the Department of Revenue (DOR) will manage the required updates to tax forms and guidance with existing staff.

The impact of the bill on General Fund Income tax revenue resulting from the forgiveness of Payroll Protection Program loans in Section 2 of the bill is undetermined. The Payroll Protection Program (PPP) loans are a unique event and are not a part of the current tax base. The CARES Act specifically exempts PPP loan forgiveness from income, and the Internal Revenue Service (IRS) guidance regarding expenses was not contemplated in the forecast. Therefore, exempting the loan forgiveness from South Carolina income taxes is not anticipated to affect the State revenue forecast. However, if taxpayers are not allowed to deduct expenses as directed by the current IRS guidance, this could potentially increase income tax revenue relative to the current forecast. The amount of increase is unknown and will depend on the amount of loans forgiven, any accounting decisions by taxpayers to minimize the tax impact as a result, and any adjustments that may be considered by Congress or the IRS. The bill specifies that South Carolina will follow the federal determination as to whether these expenses are allowed. Should the federal government not allow these expenses, General Fund Income tax revenue may increase, but the potential amount is undetermined given the number of uncertainties.

Section 3 of the bill updates South Carolina's conformity to the Internal Revenue Code (IRC) through December 31, 2019. This section of the bill is expected to reduce General Fund individual income tax revenue by \$298,000 and corporate income tax revenue by \$360,000, for a total General Fund revenue reduction of \$62,000 in FY 2020-21.

Local Expenditure and Revenue

Section 1 of the bill, which requires county auditors to use DOR's Business Personal Property Return form, will have no impact on local expenditures. Based upon a response from the South Carolina Association of Counties, this bill may require some updates to systems and processes for counties to use DOR's form for business personal property taxes, but counties are expected to be able to accomplish these tasks with existing resources.

Explanation of Fiscal Impact

Signed by Governor on September 28, 2020

State Expenditure

Section 1 of the bill requires county auditors to use DOR's Business Personal Property Return form, PT-100, when appraising and assessing business personal property (BPP). This provision does not affect DOR's current operations.

Section 2 of the bill exempts any forgiveness of PPP loans from South Carolina income tax. Section 3 of the bill updates South Carolina's income tax conformity to the IRC through December 31, 2019, with the exception of the temporary provision increasing the limitation on qualified contributions. While these provisions will require updates to forms and guidance, DOR can accomplish these tasks with existing staff. Therefore, the bill will not impact DOR's expenditures.

State Revenue

Section 2. This section specifies that for tax year 2020, to the extent that loans under PPP are forgiven and excluded from income for federal income tax purposes, those loans are excluded from South Carolina income tax as well. Additionally, to the extent that the federal government allows taxpayers to deduct expenses associated with the forgiven loans, those expenses are allowed for state income tax purposes.

The PPP was established by the federal CARES Act and implemented by the Small Business Administration (SBA). The program provides loans to small businesses, and the loan will be fully forgiven if the funds are used for payroll costs, interest on mortgages, rent, and utilities.

According to the SBA, forgiveness is based on the employer maintaining or quickly rehiring employees and maintaining salary levels. Forgiveness will be reduced if full-time headcount declines, or if salaries and wages decrease. Loan borrowers have ten months following the completion of the covered period to file for loan forgiveness. The covered period is either the 24-week period beginning on the PPP loan disbursement date or for loans received before June 5, 2020, the borrower may elect an eight-week covered period. All covered periods must end by December 31, 2020.

A total of \$5,791,085,572 was issued to 67,176 South Carolina business. The amount of these loans that will be forgiven will depend on the number of business and their qualifying expenses and is currently unknown.

Typically, when a loan is forgiven, the forgiveness must be included as income for tax purposes. However, Section 1106(i) of the CARES Act states that the amount of loan forgiveness for a PPP loan is excluded from gross income. Following passage of the Act, the Internal Revenue Service (IRS) issued guidance that expenses that would otherwise be deductible may not be claimed if the expenses result in loan forgiveness. Currently, Congress has not taken any action to reverse the IRS decision, although legislation has been introduced to allow taxpayers to deduct these expenses.

The Payroll Protection Program (PPP) loans are a unique event and are not a part of the current tax base. The CARES Act specifically exempts this loan forgiveness from income, and the IRS guidance was not contemplated in the forecast. Therefore, exempting the PPP loan forgiveness from South Carolina income taxes is not anticipated to affect the State revenue forecast. However, if taxpayers are not allowed to deduct expenses as directed by the current IRS guidance, this could potentially increase income tax revenue relative to the current forecast. The amount of increase is unknown and will depend on the amount of loans forgiven and any accounting decisions by taxpayers to minimize the tax impact as a result. The bill specifies that South Carolina will follow the federal determination as to whether these expenses are allowed. Should the federal government not allow these expenses, General Fund Income tax revenue may increase, but the potential amount is undetermined given the number of uncertainties.

Section 3. This section amends Section 12-6-40 to update South Carolina's conformity to the IRC through December 31, 2019. The section does not adopt provisions of Section 204(a) of the Taxpayer Certainty and Disaster Relief Act of 2019 relating to the temporary increase in the limitation on contributions for charitable donations to qualified disaster relief.

Currently, South Carolina conforms to the IRC as amended through December 31, 2018, and any provisions extended, but otherwise not amended, by congressional enactment during 2019. Research by DOR indicates that three subparts of the Consolidated Appropriations Act (PL 116-95) include changes that will affect South Carolina. These three subparts include the Bipartisan American Miners Act of 2019, which includes one provision affecting the minimum age for in-service distributions, the Setting Every Community Up for Retirement Act of 2019 (SECURE ACT), which includes provisions affecting retirement accounts, and the Taxpayer Certainty and Disaster Relief Act of 2019, which includes tax extenders and disaster provisions.

This legislation also adopts provisions of the federal IRC previously adopted by the State in the event any section that expired in 2019 is extended, but not otherwise amended, by the federal government during 2020. The Taxpayer Certainty and Disaster Relief Act of 2019 provisions addressed the items that would have expired in 2019.

Revenue and Fiscal Affairs (RFA) utilizes U.S. estimates by the Joint Committee on Taxation and adjusts those estimates to project the impact of adopting these federal provisions on South Carolina. Further, based upon research by RFA and discussions with the Department of Revenue (DOR) and the South Carolina Association of CPAs (SCACPA), RFA made additional adjustments to refine these estimates with respect to South Carolina.

The provisions noted in Figure 1 would affect South Carolina if the state conforms to these recent changes in the federal income tax code. One provision that lowers the threshold for the deduction for medical expenses from 10 percent of adjusted gross income to 7.5 percent was in effect for tax years 2017 and 2018 and is extended. This provision is included in the current forecast by the Board of Economic Advisors, as the forecast expectation was that this provision would be extended. Therefore, adopting this provision has no effect on the revenue forecast. Nine provisions affecting revenue expired in tax year 2017 and were retroactively reinstated in 2019. Because these provisions fully expired were not applicable to tax year 2018, they are not included in the current tax base. However, even though these provisions fully expired, DOR

advises us that they believe the provisions were not substantively amended and the current conformity statutes will extend to these provisions. Essentially, the change in revenue resulting from these provisions will occur regardless of whether South Carolina adopts this bill to extend conformity to tax year 2019. These provisions are noted for clarity in the attached Figure 1.

The potential impact of the remaining provisions is outlined by tax year in the table below and by detailed provision in the attached Figure 1. In addition to impacting tax filings for tax year 2019 and beyond, certain provisions are retroactive to tax year 2018. These figures exclude the estimate on line 23 for the temporary increase in the limitation on contributions for charitable donations to qualified disaster relief that is specifically not adopted by the amendment.

Potential Impact by Tax Year	Tax Year 2018	Tax Year 2019	Tax Year 2020
Individual Income Tax Total	\$0	(\$4,606,265)	(\$2,420,991)
Corporate Income Tax Total	(\$76,520)	(\$120,090)	(\$163,658)
Total Individual and Corporate Income Tax	(\$76,520)	(\$4,726,355)	(\$2,584,649)

To claim the tax adjustments for the retroactive provisions for tax year 2018 taxpayers would need to file an amended return. We do not anticipate that all taxpayers will file an amended return for tax year 2018, as this would incur additional expenses for tax preparation, which may outweigh the tax reduction, and extend the statute of limitations for audits. However, all taxpayers are eligible to file an amended return, and we have included the full amount in the anticipated impact for FY 2020-21.

The realized impact on revenue as a result of provisions affecting tax year 2019 may also be less than the potential impact shown above because individual income tax filers may be claiming these provisions inadvertently in filings during FY 2019-20. Given that these provisions are included for federal individual income tax returns, tax preparation software may not be equipped to allow filers to make adjustments to state returns for these limited federal provisions that South Carolina has not adopted. Taxpayers may also be unaware of the need to make these adjustments, as guidance regarding South Carolina not adopting these provisions is limited. We would expect that since these provisions are included on federal tax filings for tax year 2019, as much as 75 percent of this impact for individual income tax may already be included in 2020 tax filings and revenue collections for FY 2019-20. This would leave approximately 25 percent of the individual income tax impact, or \$1,515,566, that may occur in FY 2020-21 if taxpayers file extensions to October 2020 and receive a refund. Further, taxpayers would need to file an amended return if they claimed the increase in qualified contributions that is specifically not adopted. Applying the same 75 percent to the estimate for this provision, the change would increase revenue by \$3,870,972 for tax year 2019. In summary, the adjusted individual income tax estimate for tax year 2019 is a total increase of \$2,719,406.

The estimated tax reduction for tax year 2020 of \$2,584,649 will be realized during FY 2020-21 and beyond during normal tax filings.

In summary, section 3 of the bill is expected to reduce General Fund individual income tax revenue by \$298,000 and corporate income tax revenue by \$360,000, for a total General Fund revenue reduction of \$62,000 in FY 2020-21. This impact is outlined below.

Section 3: Estimated General Fund Impact in FY 2020-21

	Tax Year 2018	Tax Year 2019	Tax Year 2020	FY 2020-21 Impact
Individual Income Tax	\$0	\$2,719,406	(\$2,420,991)	\$298,000
Corporate Income Tax	(\$76,520)	(\$120,090)	(\$163,658)	(\$360,000)
Total Individual and Corporate Income Tax	(\$76,520)	\$2,599,316	(\$2,584,649)	(\$62,000)

Rounded to 1000s

Local Expenditure

Section 1 of the bill requires county auditors to use DOR’s Business Personal Property Return form, PT-100, when appraising and assessing BPP. This bill takes effect after December 31, 2020. Currently, county auditors do not have to use this form when assessing and appraising BPP. Based upon a response from the South Carolina Association of Counties, this bill may require some updates to systems and processes but counties are expected to be able to accomplish these tasks with existing resources. Therefore, the bill is not expected to impact local expenditures.

Local Revenue

N/A

Figure 1. Potential Impact of Federal Tax Provisions

Line	Provision	IRC §	Individual or Corporate	TY 2018	TY 2019	TY 2020
1	Reduction in minimum age for allowable in-service distributions for miners- Reduces age from 62 to 59 ½ for certain distributions from retirement plans.	401(k), 457	I	-	\$456,698	\$670,315
2	Multiple employer plans and pooled employer plans reporting - Provides administrative simplification for multi-employer plans to make it easier for small businesses to offer such plans to their employees. For plan years beginning after December 31, 2020.	413(e)(l)	I	-	(\$71,206)	(\$181,697)
3	Non-Tuition Fellowship and Stipend Payments - treated as compensation for IRA purposes.	219(F)(l)	I	-	(\$123)	(\$123)
4	Repeal of maximum age for traditional IRA contributions - IRA contributions can be made after age 70 ½. This provision does not apply to Roth IRAs and special rules apply to Qualified Charitable Distributions from IRAs.	219(d)(l) 408(d)	I	-	(\$9,821)	(\$17,188)
5	Elective deferrals allowed for certain part-time employees - Requires a 401(k) plan to allow an employee who has worked with an employer at least 500 hours per year for the 3 consecutive year period who has turned 21 by the end of the 3 consecutive years to participate in the plan..	401(k)	I	-	\$0	(\$66,295)
6	Increases age for required minimum distributions to 72 for IRAs and employer-sponsored plans.	401, 403, 457	I	-	(\$1,809,604)	(\$2,133,712)
7	Special rules for minimum funding standards for community newspaper plans (serves populations of less than 100,000).	430(m)	I	-	\$123	\$123
8	Home health care workers "difficulty of care" payments - These payments are treated as compensation for purposes of calculating the contributions limits to defined contribution plans and IRAs. Applies to defined contribution plan years beginning after December 31, 2015 and IRA contributions after December 20, 2019.	415,408	I	-	(\$24,554)	(\$17,188)
9	Administrative Provisions - Allows businesses to treat qualified retirement plans adopted before the due date of tax return (including extensions) as adopted on the last day of the tax year. For plans adopted for tax years beginning after December 31, 2019.	401	I	-	\$0	(\$22,098)

Line	Provision	IRC §	Individual or Corporate	TY 2018	TY 2019	TY 2020
10	Benefits for Volunteer Firefighters and Emergency Medical Responders - Reinstates for one year the exclusions for qualified State or local tax benefits and qualified reimbursement payments provided to volunteer emergency response organizations (generally a property tax reduction). Increases the exclusion for qualified reimbursement payment to up to \$50 for each month during which a volunteer provides services. Exclusion only applies to tax years beginning during 2020.	139B	I	-	(\$61,384)	(\$19,643)
11	Expansion of Section 529 Plans - Expands 529 plans to cover costs associated with apprenticeships and up to \$10,000 of qualified student loan repayments (principal or interest) For loan repayments, amounts can be distributed to a sibling of a designated beneficiary. The deduction for interest paid by the taxpayer during the tax year on a qualified education loan is disallowed to the extent the interest was paid from a tax-free distribution from a 529 Plan.	529, 221(e)(1)	I	-	(\$56,473)	(\$46,652)
12	Post-death required minimum distribution rules changed - For employees or IRA owners that die, remaining account balance must generally be distributed to designated beneficiaries within 10 years of date of death. There are exceptions to this requirement for certain individuals including surviving spouse and child who has not reached majority. Effective for employees or IRA owners who die after December 31, 2019.	401(a)(9)	I	-	\$520,537	\$1,578,800
13	Extension and modification of exclusion from gross income of discharge of qualified principal residence indebtedness - Extends through 2020 the exclusion from gross income of a discharge of qualified principal residence indebtedness. The Act also provides that mortgage debt discharged is eligible for exclusion as long as it was pursuant to an arrangement entered into and evidenced in writing before January 1, 2021. Effective for discharges of indebtedness after December 31, 2017.	108(a)(1)(E)	I	(Provision Already Adopted)		

Line	Provision	IRC §	Individual or Corporate	TY 2018	TY 2019	TY 2020
14	Extension of mortgage insurance premiums treated as qualified residence interest - Extends through 2020 the treatment of qualified mortgage insurance premiums as interest for purposes of the mortgage interest deduction, subject to the existing phase-out rules. Effective for amounts paid or accrued after December 31, 2017.	163(h)(3)	I		(Provision Already Adopted)	
15	Extension of above-the-line deduction for qualified tuition and related expenses - Extends through 2020 the above-the-line tax deduction for qualified education expenses. The deduction is capped at \$4,000 for an individual whose adjusted gross income (AGI) does not exceed \$65,000 (\$130,000 for joint filers) or \$2,000 for an individual whose AGI does not exceed \$80,000 (\$160,000 for joint filers). Effective for taxable years beginning after December 31, 2017.	222(e)	I		(Provision Already Adopted)	
16	Extension of 7-year recovery period for motorsports entertainment complexes - Extends through 2020 the special 7-year cost recovery period for property used for land improvement and support facilities at motorsports entertainment complexes. Effective for property placed in service after December 31, 2017.	168(i) (15)	I		(Provision Already Adopted)	
17	Extension and modification of accelerated depreciation for business property on an Indian reservation - Extends through 2020 the placed-in-service date for the special depreciation recovery period for qualified Indian reservation property. The Act also provides an election out of the accelerated depreciation rules. Effective for property placed in service after December 31, 2017.	168(j)	I		(Provision Already Adopted)	
18	Extension of special expensing rules for certain film and television productions; special expensing for live theatrical productions - Extends through 2020 the provision that allows film and television producers to expense the first \$15 million of production costs incurred in the United States. Additionally, the Act modifies the special expensing rules to include certain live theatrical productions. Generally effective for productions commencing after December 31, 2017.	181	I		(Provision Already Adopted)	

Line	Provision	IRC §	Individual or Corporate	TY 2018	TY 2019	TY 2020
19	Extension and modification of empowerment zone tax incentives - Extends through 2020 the designation of certain economically depressed census tracts as empowerment zones. The tax benefits available include tax-exempt bonds, employment credits (which are increased IRC §38 credits that SC does not adopt), liberalized Code Section 179 expensing, and gain exclusion from the sale of certain small-business stock.	1391(d); 1394(b); 1396 (wage credit, not adopted); 1397B	I	(Provision Already Adopted)		
20	Extension and modification of energy efficient commercial buildings deduction - Extends through 2020 the deduction for energy efficiency improvements to lighting, heating, cooling, ventilation, and hot water systems of commercial buildings. Effective for property placed in service after December 31, 2017.	179D	C	(Provision Already Adopted)		
21	Extension of special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities - Extends through 2020 the present law deferral of gain on sales of transmission property by vertically integrated electric utilities to FERC-approved independent transmission companies. Rather than recognizing the full amount of gain in the year of sale, this provision allows gain on such sales to be recognized ratably over an 8-year period. Effective for dispositions after December 31, 2017.	451(i)	C	(Provision Already Adopted)		
22	Penalty Waiver and Re-contribution of Certain Plan Withdrawals - Provides an exception to the 10% early retirement plan withdrawal penalty for qualified disaster relief (not to exceed \$100,000 in cumulative qualified hurricane distributions) (SC does not adopt this penalty provision). Allows re-contribution of retirement plan withdrawals for home purchases canceled due to eligible disasters and allows flexibility for loans from retirement plans for qualified hurricane relief.	72(t)	I	-	(\$518,082)	(\$346,207)
23	Non-conform Temporary suspension on limitations on charitable contributions associated with qualified disaster relief.	170	I	-	(\$5,161,296)	\$2,244,253

Line	Provision	IRC §	Individual or Corporate	TY 2018	TY 2019	TY 2020
24	Special rules for qualified disaster related personal casualty losses - Eliminates the requirement that personal casualty losses must exceed 10% of adjusted gross income to qualify for deduction and eliminates requirement that taxpayers must itemize deductions to deduct these casualty losses.	165	I		(\$3,032,376)	(\$1,819,426)
25	Modifies definition of income used to determine the tax-exempt status of mutual or cooperative telephone or electric companies - Excludes certain government grants, contributions and assistance from definition.	501(c)	C	(\$732)	(\$1,465)	(\$2,197)
26	Repeals increase in unrelated business income for certain fringe benefit expenses - Eliminates the "church parking tax." Applies to amounts paid or incurred after December 31, 2017.	512(a)(7)	C	(\$75,788)	(\$118,625)	(\$161,461)
27	Individual Income Tax Total*			\$0	(\$4,606,265)	(\$2,420,991)
28	Corporate Income Tax Total*			(\$76,520)	(\$120,090)	(\$163,658)
29	Total Individual and Corporate Income Tax*			(\$76,520)	(\$4,726,355)	(\$2,584,649)
30	*Note: Estimates on lines 27-29 above are before adjustments. See Estimated Impact in FY 2020-21 table above for estimated impact with adjustments. Line item adjusted estimates are unavailable.					
31	PROVISIONS WITH NO FISCAL IMPACT					
32	Increase in default cap for automatic enrollment safe harbor from 10% to 15% after the first year	401(k)		No impact	No impact	No impact
33	401(k) Safe Harbor rules simplified - eliminates certain notice requirements for non-elective 401(k) safe harbor plans.	401(k)		No impact	No impact	No impact
34	Plan loans distributed through credit cards or similar arrangements - These arrangements do not meet the requirements for loan treatment and are treated as deemed distributions. Applicable after December 20, 2019.	72(p)		No impact	No impact	No impact

Line	Provision	IRC §	Individual or Corporate	TY 2018	TY 2019	TY 2020
35	Portability of lifetime income options - Allows new choices where a lifetime income investment is no longer authorized to be held as an investment option by qualified defined contribution plans.	401, 403, 457		No impact	No impact	No impact
36	Treatment of custodial accounts on termination of Section 403(b) Plans - IRS is directed to issued guidance to later than June 20, 2020 regarding these terminations.	403		No impact	No impact	No impact
37	Retirement income account rules for church-controlled organizations - Clarifies which individuals can be covered. Applies to tax years before, on, or after December 20, 2019.	403		No impact	No impact	No impact
38	Modification of non-discrimination rules for closed plans to permit existing participants to continue to accrue benefits - Designed to protect older, longer service employees.	401		No impact	No impact	No impact
39	Extension of classification of certain race horses as 3-year property - Extends through 2020 the 3-year recovery period for race horses. Effective for property placed in service after December 31, 2017.	168(e)(3)(A)		(Provision Already Adopted)		

Source: Summary of provisions impacting South Carolina by Department of Revenue; Impact estimates by S.C. Revenue and Fiscal Affairs

Frank A. Rainwater, Executive Director