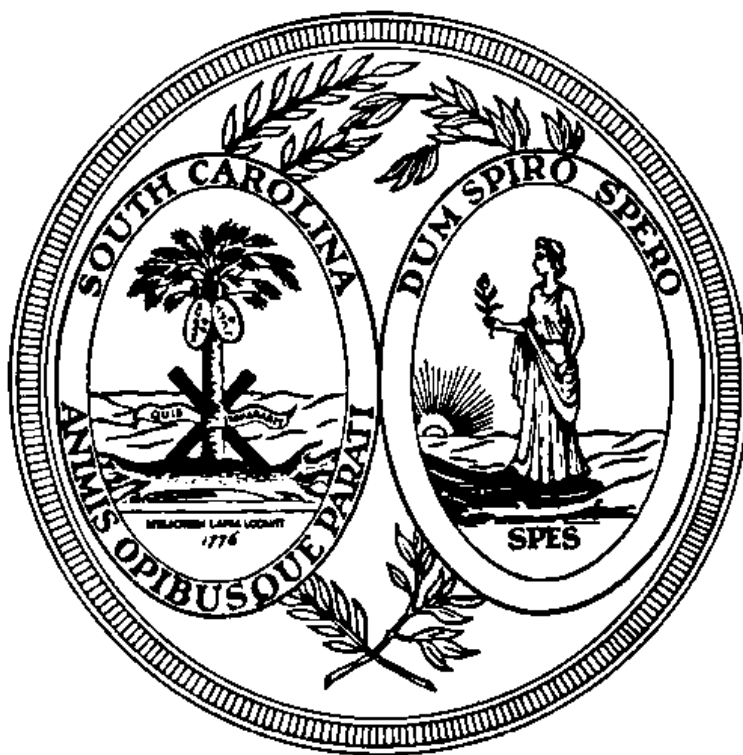


**South Carolina
Department of Revenue
Legislative Update
for 2014**



**The Honorable Nikki R. Haley, Governor
Rick Reames III, Director**

This publication is written in general terms for widest possible use and may not contain all the specific requirements or provisions of authority. It is intended as a guide only, and the application of its contents to specific situations will depend on the particular circumstances involved. This publication does not constitute tax, legal, or other advice and may not be relied on as a substitute for obtaining professional advice or for researching up to date original sources of authority. Nothing in this publication supersedes, alters or otherwise changes provisions of the South Carolina code, regulations or Department's advisory opinions. This publication does not represent official Department policy. The Department would appreciate any comments or notifications of any errors. Such comments should be sent to:

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TAX LEGISLATIVE UPDATE FOR 2014

Attached is a brief summary of most of the significant changes in tax and regulatory laws enacted during the past legislative session. The summary is divided into categories, by subject matter, as indicated below.

<u>CATEGORY OF LEGISLATION</u>	PAGE #
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DISCLAIMER:

This is intended to be a summary of the main points of the legislation; it is not an interpretation by the Department. Please refer to the full text of the legislation for specific details and requirements.

Legislation regarding insurance premium taxes, unemployment taxes, distribution of funds, millage rate changes, and other similar provisions are not summarized. There may be instances where some tax or incentive related legislation briefly summarized is under the jurisdiction of another state agency or political subdivision, and not the Department. In such cases, questions concerning these provisions should be made directly to the agency or political subdivision having primary responsibility for the administration of these acts.

TEXT OF LEGISLATION:

A complete copy of the legislation discussed in this publication can be obtained from the South Carolina Legislature website at <http://www.scstatehouse.gov/> or the Department's website at <http://www.sctax.org/Tax+Policy/New+Legislation.htm>.

LIST OF BILLS BY SUBJECT CATEGORY

A list of significant changes in tax and regulatory laws (both permanent and temporary) enacted during the 2014 legislative session is provided below. Temporary provisos are enacted in the State budget and are only effective for the State fiscal year (July 1 – June 30); unless re-enacted they expire on June 30, 2015.

This list is divided by subject matter with the bills listed in numeric order. The list of bills with a link to the full text of each act is on the Department’s website at:

<http://www.sctax.org/Tax+Policy/New+Legislation.htm>.

INCOME TAXES, BANK TAXES, WITHHOLDING and CORPORATE LICENSE FEES

BILL #	ACT #	SUBJECT
953	126	Internal Revenue Code Conformity
3089	134	Volunteer State Constable – Eligible for Deduction
3644 – Sec. 1	279	Manufacturers of Clean Energy Systems and Components Credit – Amended
– Sec. 2	279	Biomass Resource Credit – Administration of Credit by Department
– Sec. 3	279	License Tax Credit for Infrastructure – Multi-Use Sports and Recreation Complex
– Sec. 4.A	279	Job Retraining Credit – Substantial Amendments
– Sec. 4.B	279	Job Retraining Additional Annual Fee – Requirement Change
4701 – Proviso 1.80	286	Educational Credit for Exceptional Needs Children – Reenacted Temporary Proviso
4701 – Proviso 1A.11	286	Teacher Supplies and Materials – Reimbursement Amount Not Taxable or Refundable Income Tax Credit– Reenacted Temporary Proviso
4701 – Proviso 1A.12	286	Teacher of the Year Awards – Not Subject to South Carolina Income Tax – Reenacted Temporary Proviso
4701 – Proviso 118.14	286	Consumer Protection Services – Individual Income Tax Deduction- Reenacted Temporary Proviso

PROPERTY TAXES and FEES IN LIEU OF PROPERTY TAXES

BILL #	ACT #	SUBJECT
437 – Sec. 1	259	Residence Rented 72 Days of Less – Eligibility for 4% Assessment Ratio
– Sec. 4	259	Exemption Added for Certain Trusts for the Benefit of a Religious Organization
– Sec. 5	259	Partial Ownership Interest in Residence – Eligibility for 4% Assessment Ratio
– Sec. 6	259	Rental of Portion of Legal Residence – Eligibility for 4% Assessment Ratio
825 – Sec. 2	289	Property on Military Base Used for Military Housing - Exempt
3027 – Sec. 1	133	Armed Forces Member Residential Property – Eligibility for 4% Assessment Ratio Expanded
4944	277	Multiple Lot Discount – Additional Year of Eligibility
4701 – Proviso 1.62	286	Index of Taxpaying Ability – Imputed Value for Owner-Occupied Residential Property – Reenacted Temporary Proviso
4701 – Proviso 117.41	286	Personal Property Tax Relief Fund Not Funded – Reenacted Temporary Proviso

SALES AND USE TAXES

BILL #	ACT #	SUBJECT
437 – Sec. 3	259	Residence Rented Under 15 Days – Not Subject to Sales Tax on Accommodations
3561	172	“Additional Guest Charges” at Places Furnishing Accommodations - Amended
4701 – Proviso 117.40	286	Private Schools – Use Tax Exemption – Reenacted Temporary Proviso
4701 – Proviso 117.61	286	Respiratory Syncytial Virus Medicines Exemption – Effective Date – Reenacted Temporary Proviso
4701 – Proviso 117.65	286	Viscosupplementation Therapies – Sales and Use Tax Suspended – Reenacted Temporary Proviso

MISCELLANEOUS

BILL #	ACT #	SUBCATEGORY	SUBJECT
		Administrative & Procedural	
437 – Sec. 2	259		Federal Schedule E Filed – Disclosure Permitted
985 – Sec. 3 and 4	261		“Fairness in Lodging Act” – Disclosure and Duties of the Department
4701 – Proviso 92.10	286		2% Reduction on Interest on Tax Refunds – Reenacted Temporary Proviso
4701 – Proviso 106.6	286		Voluntary Website Posting of Tax Return Information for Candidates and gubernatorial Appointees – Reenacted Temporary Proviso
4701 – Proviso 117.91	286		Additional 1% Reduction on Interest Rate on Tax Refunds – Reenacted Temporary Proviso
		Miscellaneous Taxes	
437 – Sec. 4	259		Deed Recording Fee – Exemption for Transfers from Trust Expanded
474	242		State Museum – Exempt from Admissions Tax
4701 – Proviso 1.17	286		Local Government School Buses – Motor Fuel Tax Exemption – Reenacted Temporary Proviso
4701 – Proviso 33.11	286		Nursing Home Bed Franchise Fee – Suspension – Reenacted Temporary Proviso
4701 – Proviso 106.7	286		Admissions Tax Exemption for Payment to Nonprofit Athletic Booster Organizations for Right to Purchase Athletic Event Season Tickets – Reenacted Temporary Proviso
4701 – Proviso 118.19	286		Admissions Tax Rebate - Motorsports Entertainment Complex Facility - Reenacted Temporary Proviso
		Other	
503	188		Beach Preservation Act – New 1% Beach Preservation Fee Remitted to Local Governing Body
809	243		Local Capital Project Sales Tax – Referendum Date Amended
940 – Sec.1	290		Education Capital Improvement Sales and Use Tax – County Eligibility
– Sec. 2	290		Education Capital Improvement Sales and Use Tax – Reimposition Referendum
985 – Sec. 1 and 2	261		“Fairness in Lodging Act” – New Authority to Enforce Local Accommodations Tax
1033	220		Emergency Related Infrastructure Work by an Out of State Business or Employee – 2013 Proviso Codified

1085	229		Local Sales and Use Tax for Transportation Facilities – Referendum Date and Imposition
4871	208		Charter Schools Taxation - Amended
		Regulatory	
3512 – Sec. 1	223		Discounts on Sales of Alcoholic Liquor and Certain Nonalcoholic Items by Premiums, Coupons or Stamps - Amended
3512 – Sec. 2, 3 and 4	223		Acquisition of Alcoholic Liquor by Retail Dealers – New Provisions
– Sec. 5	223		Brewery – Sales for On-Premises Consumption
– Sec. 6	223		Sale of Alcoholic Liquor – Prohibited Days Amended
3626	199		Motorsports Entertainment Complex and Tennis Specific Complex – New Licensing Provisions for Beer and Wine and for Alcoholic Liquors Sold at These Locations
4399 – Sec. 1	253		Locations Seeking License to Sell Liquor for On-Premises Consumption – Consent in Case of Proximity to Church or Playground
– Sec. 2	253		Powdered Alcohol Unlawful – New Misdemeanor and Exceptions
4701 – Proviso 117.116	286		Donation of Alcoholic Liquors - Reenacted Temporary Proviso

INCOME TAXES, BANK TAXES, WITHHOLDING, and CORPORATE LICENSE FEES

Senate Bill 953 (Act No. 126)

Internal Revenue Code Conformity

Conformity Date. Code Section 12-6-40(A)(1)(a) has been amended, except as otherwise provided, to update South Carolina's income tax laws to conform to the Internal Revenue Code of 1986, as amended through December 31, 2013, and includes the effective date provisions contained therein.

Extension of Expiring Federal Provisions. Code Section 12-6-40(A)(1)(c) provides that if during 2014 the federal government extends, without otherwise amending, Internal Revenue Code provisions expired on December 31, 2013, then these sections or portions of sections which have been adopted by South Carolina will be extended in the same manner they are for federal income tax purposes.

Effective Date: March 4, 2014

House Bill No. 3089 (Act No. 134)

Volunteer State Constable – Eligible for Deduction

Code Section 12-6-1140(10)(a), which allows an income tax deduction for a volunteer firefighter, rescue squad member, reserve police officer, and other specified law enforcement and safety officers, has been amended to include a volunteer state constable appointed by the Governor pursuant to Code Section 23-1-60 for the purpose of assisting named law enforcement agencies and who has been designated by the State Law Enforcement Division (SLED) as a state constable not otherwise eligible for the deduction. The deduction is determined yearly by the Board of Economic Advisors and cannot exceed \$3,000.

Code Section 12-6-1140(10)(c)(v) provides the eligibility requirements for this deduction. The volunteer state constable must:

1. Complete a minimum logged service time of 240 hours per year;
2. Be designated by SLED as a state constable before the tax year for which the deduction is first claimed; and
3. Be current with the required SLED approved annual training for constables for the most recently completed fiscal year.

Effective Date: Applies to tax years beginning after 2013.

Manufacturers of Clean Energy Systems and Components Credit - Amended

Code Section 12-6-3588, providing an income tax credit to companies in the solar, wind, geothermal, and other clean energy industries expanding or locating in South Carolina, has been amended. The amendments include:

Act Renamed. The General Assembly has renamed the Act in Code Section 12-6-3588 from the “South Carolina Renewable Energy Tax Incentive Program” to the “South Carolina Clean Energy Tax Incentive Program”.

Act Extended. When enacted in 2010, the income tax credit program was for a 5 year period beginning January 1, 2010 and ending December 31, 2015. The credit is now allowed for up to 60 months beginning with the first year for which the business is eligible to receive the credit, providing it becomes eligible no later than the tax year ending December 31, 2020.

Credit Provisions Amended. Among the changes are:

1. The investment requirement in new qualifying plant and equipment has changed from \$500 million to at least: (a) \$50 million in a Tier IV county, (b) \$100 million in a Tier III county, (c) \$150 million in a Tier II county, or (d) \$200 million in a Tier I county. The county ranking is determined by Code Section 12-6-3360(B), the job tax credit statute.
2. The job creation requirement has changed from a business creating 1½ full time jobs for every \$500,000 of qualifying capital investment to creating at least 1 full-time job for every \$1 million of qualifying capital investment. The statute continues to require that the jobs pay at least 125% of the State’s average annual median wage as defined by the Department of Commerce.
3. The manufacturing requirement has changed to provide that a business must manufacture clean energy systems or components in South Carolina for solar, wind, geothermal, or other clean energy uses to be eligible for the credit. The “or” was previously an “and”.
4. The term “clean energy” has been substituted for “renewable energy.” “Clean energy operations” are limited to manufacturers of systems or components that are used or useful in manufacturing or operation of clean energy equipment for the generation, storage, testing and research and development, and transmission or distribution of electricity from clean energy sources, including specialized packaging for the clean energy equipment manufactured at the facility. A clean energy operation does not include generating electricity for off-site consumption.

Credit Request and Approval by Department. For credits awarded after tax year 2014, to obtain the amount of credit, a taxpayer must notify the Department, not the State Energy Office, in writing, of its intention to claim the credit.

The Department will now determine the proof necessary to meet the credit requirements. Expenditures qualifying for the credit will be certified by the Department. A request for credit must be submitted by January 31st to the Department for qualifying expenses incurred in the prior calendar year. The Department will notify the taxpayer of the qualifying expenditures and the credit amount by March 1st of that year.

Effective Date: Tax years beginning after 2013.

House Bill 3644, Section 2 (Act No. 279)

Biomass Resource Credit – Administration of Credit by Department

Code Section 12-6-3620 provides a corporation a credit against income taxes, corporate license fees, or both, for 25% of the costs incurred for the purchase and installation of equipment used to create power, heat, steam electricity, or another form of energy for commercial use from a fuel consisting of 90% or more biomass resource.

A new subsection has been added to provide that for any credit requested after tax year 2013, a taxpayer must submit a request for credit to the Department by January 31st for all qualifying equipment placed in service in the previous calendar year. The Department must notify the taxpayer as to whether it qualifies for the credit and the amount of credit by March 1st of that year.

Effective Date: June 10, 2014

House Bill 3644, Section 4.A (Act No. 279)

Job Retraining Credit – Substantial Amendments

Code Section 12-10-95 provides for a job retraining “credit” to approved businesses retraining qualifying existing employees in order for the business to remain competitive, introduce new technologies, export products, or provide apprenticeship programs. The incentive allows a business to obtain a refund of employee withholding to use for, or reimburse the cost of, qualifying retraining. Code Section 12-10-95 has been substantially amended and the statute now provides the following:

Approval of Retraining. A business negotiates with a technical college, with approval from the State Board for Technical and Comprehensive Education. Code Section 12-10-95(A).

Annual Credit. A business may negotiate to claim a job retraining credit of \$1,000 a year for retraining of each qualifying employee. The total amount of retraining credit cannot exceed \$5,000 over 5 consecutive years for each retrained employee. Code Section 12-10-95(A).

Expenditure of Business. A qualifying business must spend at least \$1.50 on retraining eligible employees for every \$1.00 claimed as a credit against withholding. Code Section 12-10-95(E).

Eligible Employee. Retraining is limited to a production or technology first line employee or immediate supervisor who is a full-time employee and has been employed by the business for at least two years. Code Section 12-10-95(A).

Eligible Programs and Costs. Retraining programs that are eligible for the credit include retraining of current employees on newly installed equipment or newly implemented technology, such as computer platforms, software implementation and upgrades, Total Quality Management, ISO 9000, and self-directed work teams. Executive training, management development training, career development, personal enrichment training, and cross-training of employees on equipment or technology that is not new to the company are not eligible for the credit. Code Section 12-10-95(A)(2).

The credit is not available if the business requires the employee to reimburse or pay the employer for the direct costs of retraining, or if the employee is required to reimburse or pay the employer indirectly through the forfeit of leave time, vacation time, or other compensable time. Direct costs of retraining include instructor salaries, development of retraining programs, purchase or rental of materials and supplies, textbooks and manuals, instructional media, such as video tapes, presentations, equipment used for retraining only, not to include production equipment, and reasonable travel costs as limited by the state's travel reimbursement policy. Code Sections 12-10-95(A)(2) and (D).

The approving technical college may supervise the employer's approved internal training program. Code Section 12-10-95(C).

Annual Renewal Fee. The annual renewal fee of \$250 is to be billed and collected by the Department. Code Section 12-10-95(H).

Audit. Every 3 years, the Department must audit any business that claimed the job retraining credit during that time period solely for the purpose of verifying the sources and uses of the credits. Code Section 12-10-95(I)(2).

Effective Date: Tax years beginning after December 31, 2013.

House Bill 3644, Section 4.B (Act No. 279)

Job Retraining Additional Annual Fee – Requirement Change

Code Section 12-10-105 provides that a business claiming more than \$10,000 of job development credits or more than \$10,000 of job retraining credits for a project in one calendar year must remit an additional \$1,000 fee to the Department. This section has been revised to change the dollar requirement applicable to a business claiming job retaining credits to \$40,000.

Effective Date: Tax years beginning after December 31, 2013.

License Tax Credit for Infrastructure – Multi-Use Sports and Recreation Complex

Code Section 12-20-105 allows a taxpayer subject to the license fee imposed on South Carolina property and gross receipts under Code Section 12-20-100, such as a power company, water company, gas company, or telephone company, a credit against its liability for amounts paid in cash for infrastructure for an eligible project of another taxpayer. The statute has been amended as follows:

1. Code Section 12-20-105(B)(3) has been added to provide that in a county that collects at least \$5 million in state accommodations tax in at least one fiscal year, a county or municipality owned multi-use sports and recreation complex is considered an “eligible project” promoting economic development for the purposes of the credit.
2. A new subsection has been added to provide that for a qualifying multi-use sports and recreation complex in subsection (B)(3), infrastructure includes costs of land acquisition and preparation, construction of facilities and venues in the complex, improvements and upgrades to existing facilities and venues, and any other capital costs incurred in the acquisition, construction, and operation of the complex, in addition to qualifying infrastructure listed in subsection (C) of the statute.

Effective Date: Applies for contributions made for a multi-use sports and recreational complex placed in service after 2011.

REENACTED TEMPORARY PROVISOS

The following temporary provisos were enacted in a prior legislative session and were reenacted by the General Assembly in 2014. Temporary provisos are effective for the State fiscal year July 1, 2014 through June 30, 2015, and will expire June 30, 2015, unless reenacted by the General Assembly in the next legislative session.

House Bill 4701, Part IB, Section 118, Proviso 118.14 (Act No. 286)

Consumer Protection Services – Individual Income Tax Deduction

This temporary proviso allows an individual an income tax deduction for the cost incurred to purchase “identity theft protection” and “identity theft resolution services” by monthly or annual contract or subscription. The deduction is equal to actual costs for the contract or subscription incurred in the tax year, up to \$300 for an individual taxpayer or up to \$1,000 for a joint return or a return claiming dependents.

The deduction is available to:

1. A taxpayer who filed a return (paper or electronic) with the Department for any tax year from 1998 through 2012 or
2. A person whose personally identifiable information was on the return of another eligible person, including minor dependents.

The deduction is not available to:

1. An individual who is enrolled in the identity theft protection and identity theft resolution services offered free of charge by the State.
2. An individual who deducted the same actual cost as a business expense.

For purposes of this proviso, “identity theft protection” and “identity theft resolution services” are defined as follows:

Identity theft protection. Identity theft protection means products and services designed to prevent an incident of identity fraud or identity theft or otherwise protect the privacy of a person’s personal identifying information by precluding a third party from gaining unauthorized acquisition of another’s personal identifying information to obtain financial resources or other products, benefits or services.

Identity theft resolution services. Identity theft resolution services means products and services designed to assist persons whose personal identifying information was obtained by a third party, minimizing the effects of the identity fraud or identity theft incident and restoring the person’s identity to pre-theft status.

House Bill 4701, Part IB, Section 1A, Proviso 1A.11 (Act No. 286)

Teacher Supplies and Materials – Reimbursement Amount Not Taxable or Refundable Income Tax Credit

This temporary proviso allows for a \$275 reimbursement designed to offset expenses for teaching supplies and materials incurred by all certified public school teachers, certified special school classroom teachers, certified media specialists, and certified guidance counselors who are employed by a school district or a charter school as of November 30 of the current fiscal year. The reimbursement is not considered taxable income by South Carolina.

This proviso also provides that any classroom teacher, including a classroom teacher at a South Carolina private school, not eligible for the teacher supply reimbursement described above, may claim a refundable income tax credit on his 2014 tax return. The credit is the lesser of \$275 or the amount spent on teacher supplies and materials. The return claiming the credit must be filed on or before June 30, 2015. The return can be an original or amended return and may be for expenses made after December 31, 2014.

House Bill 4701, Part IB, Section 1A, Proviso 1A.12 (Act No. 286)

Teacher of the Year Awards - Not Subject to South Carolina Income Tax

This temporary proviso provides for the following teacher of the year awards: (a) a \$1,000 award to each district Teacher of the Year, (b) a \$25,000 award to the State Teacher of the Year, and (c) a \$10,000 award to each of the four Honor Roll Teachers of the Year. These awards are not subject to South Carolina income tax.

House Bill 4701, Part IB, Section 1, Proviso 1.80 (Act No. 286)
(Similar to 2013 House Bill 3710, Part IB, Section 1, Proviso 1.85)

Educational Credit for Exceptional Needs Children

This temporary proviso provides that grants may be awarded by a nonprofit scholarship funding organization of up to \$10,000 or the total cost of tuition, whichever is less, for qualifying students with exceptional needs to attend an independent school. A person is allowed a tax credit against state income taxes or bank taxes for the amount of money contributed to a nonprofit scholarship funding organization if (1) the contribution is used to provide grants for tuition, transportation to and from school, or textbooks to exceptional needs children enrolled in eligible schools and (2) the person does not designate a specific child or school as the beneficiary of the contribution. The credit is available for contributions made between July 1, 2014 and June 30, 2015, unless the legislature re-enacts this temporary credit proviso in the next legislative session.

Other requirements of the credit include:

1. The credit is limited to 60% of a taxpayer's total income tax or bank tax liability for the tax year the contribution is made.
2. A corporation or entity entitled to the credit may not convey, transfer, or assign this credit to another entity unless all of the assets of the corporation or entity are conveyed, assigned, or transferred in the same transaction.
3. The total amount of tax credits authorized is \$8 million.
4. The credits will be allowed on a first come, first serve basis based on an application process established by the Department with the receipt of the application by the Department determining the priority.

The Educational Oversight Committee created under Chapter 6, Title 59, is responsible for (1) determining if an eligible school meets the criteria of this proviso and publishing an approved list of such schools, (2) providing a list of nonprofit scholarship funding organizations in good standing which provide grants, and (3) providing a list of approved independent schools which accept grants.

Every nonprofit scholarship funding organization providing grants must have an outside auditing firm conduct a comprehensive financial audit of its operations in conformity with generally accepted accounting principles. The audit must also document the total number of grants awarded, the total amount of each grant, and the names of the schools receiving the grants. Further, every independent school accepting grants for eligible students under this proviso must have a compliance audit by an outside entity or auditing firm to examine its compliance with this proviso. The audits of the nonprofit scholarship funding organizations and independent schools accepting grants must be furnished within 30 days of issuance and acceptance to the Department and the Secretary of State and made available on their websites for public review.

The proviso provides definitions of various terms. These include "nonprofit scholarship funding organization," "exceptional needs child," "qualifying student," "independent school" and "eligible school."

A "nonprofit scholarship funding organization" is a charitable organization that:

1. Is an exempt organization under Internal Revenue Code Section 501(c)(3);
2. After its first year of operation, allocates at least 95% of its annual contributions and gross revenues received during a year to provide grants for tuition, transportation to and from school, and textbook expenses to children enrolled in an "eligible school" and after the first year of operation, does not have administrative expenses exceeding 5% of its annual contributions and revenues for the year;
3. Allocates all of its funds used for grants on an annual basis to "exceptional needs" students;

4. Does not provide grants solely for the benefit of one school;
5. Does not have as a volunteer, contractor, consultant, fundraiser, or member of its governing board a parent, guardian, or member of their immediate family who has a child who is receiving or has received a scholarship grant authorized by this proviso within one year of the date the person became a board member;
6. Does not have as a member of its governing board or an employee, volunteer, contractor, consultant, or fundraiser who has been convicted of a felony, or has declared bankruptcy within the last seven years;
7. Does not release personal identifiable information about students or donors or use information collected about students, donors, or schools for financial gain; and
8. Does not place conditions on schools concerning enrolling students receiving scholarships from other nonprofit scholarship funding organizations.

An “eligible school” is an independent school including those religious in nature, other than a public school, at which compulsory attendance requirements of Code Section 59-65-10 may be met, that:

1. Is located in South Carolina;
2. Offers a general education to primary or secondary school students;
3. Does not discriminate based on race, color or national origin;
4. Has an educational curriculum that includes courses set forth in South Carolina’s diploma requirements and which administers national achievement or state standardized tests, or both, at progressive grade levels to determine student progress;
5. Has school facilities that are subject to applicable federal, state and local laws; and
6. Is a member in good standing of the Southern Association of Colleges and Schools, the SC Association of Christian Schools or the SC Independent Schools Association.

A “qualifying student” is a student who: (1) is a South Carolina resident, (2) is eligible to be enrolled in a South Carolina secondary or elementary public school at the kindergarten level or above for the current school year, and (3) is a student with “exceptional needs.”

A student with exceptional needs is defined as a child:

1. (a) who has been evaluated under the criteria of South Carolina Regulation 43-243.1, and determined to be eligible as a child with a disability who needs special education and related services in accordance with Section 300.8 of the Federal Individuals and Disabilities Education Act (20 U.S.C.A. Section 1400 *et. seq.*); or

(b) has been diagnosed within the last three years by a licensed speech-language pathologist, psychiatrist, or medical, mental health, psycho-educational, or other comparable licensed healthcare provider as having a neurodevelopmental disorder; a substantial sensory or physical impairment (such as deaf, blind, or orthopedic disability); or some other disability or acute or chronic condition that significantly impedes the student's ability to succeed in school without specialized instruction or services tailored to the child's unique needs; and

2. the child's parents or legal guardian believes that the services provided by the school district of legal residence do not sufficiently meet the needs of the child.

Prior to awarding a grant, a parent or guardian must provide documentation to the nonprofit scholarship funding organization that a qualifying student is an exceptional needs child. A portion of the scholarship funds must be returned to the nonprofit scholarship funding organization granting the scholarship if a qualifying student withdraws from the school before the end of the semester or school year.

REMINDER

The following provisions were enacted in a prior year, but are effective in 2014. They are summarized below for informational purposes.

House Bill 5418, Section 2 (Act No. 287)

Active Trade or Business Income of Pass through Entity – New Tax Rate

Code Section 12-6-545 provides for a reduced income tax rate on active trade or business income of a pass through business (*i.e.*, sole proprietorship, partnership, S corporation, or limited liability company taxed as a sole proprietorship, partnership, or S corporation) in lieu of the income tax rate imposed under Code Section 12-6-510 (individual income tax.) Code Section 12-6-545(B)(2) has been amended to lower the current tax rate from 5% to 3% over several years.

The new rates are phased in as follows:

Tax Year Beginning In	Tax Rate
2012	4.33 %
2013	3.67 %
2014 and thereafter	3.00 %

House Bill 3557 (Act No. 81)

Port Cargo Credit - Amended

Code Section 12-6-3375, providing a tax credit for port cargo volume in an amount determined by the Coordinating Council for Economic Development (Department of Commerce), has been amended. The changes include:

Qualifying Taxpayer Expanded. A taxpayer engaged in any of the following is now eligible for the port cargo credit: manufacturing, warehousing, freight forwarding, freight handling, goods processing, cross docking, transloading, wholesaling of goods, or distribution, exported or imported through port facilities in South Carolina. Previously, only a taxpayer engaged in manufacturing, warehousing, or distribution was eligible for the credit.

Cargo Ownership Rule. The provision requiring that the taxpayer claiming the credit must own the cargo at the time the port facilities are used has been deleted.

Use of Credit. The credit may now be claimed against (1) taxes imposed pursuant to Code Section 12-6-530 (corporate income tax), (2) taxes under Code Section 12-6-545 (active trade or business income subject to the reduced individual income tax rate), and (3) employee withholding. Previously, the credit could be used against “income taxes” and “withholding taxes.”

Carryover of Credit Clarified and Expanded to Withholding Tax. If the income tax credit exceeds the taxpayer’s income tax liability for the tax year, the excess may be carried forward and claimed against income taxes in the next 5 succeeding tax years. If the credit against withholding tax exceeds the taxpayer’s withholding tax liability that is not otherwise refunded for the tax quarter, the excess may be carried forward and claimed in the next 20 succeeding quarters against withholding liability that is not otherwise refunded. Previously, an unused credit was claimed against income tax for the next 5 tax years.

Definitions. A definition for the term “weighted twenty-foot equivalent unit” has been added. The definitions for “base year port cargo volume” and “port cargo volume” have been amended.

Allocation of Credit by Coordinating Council – Discretionary Factors Revised. The Coordinating Council has the sole discretion in allocating the port cargo credit and will consider the following factors: (a) the amount of base year port cargo volume, (b) the total and percentage increase in port cargo volume, and (c) factors related to the economic benefit of the State or other factors. The number of qualifying taxpayers and the type of cargo transported were deleted as factors to be considered by the Coordinating Council.

Amount of Credit to be Allocated Against Withholding Tax. The limitation that the amount of port cargo credit allocated for use against employee withholding cannot exceed \$4 million has been deleted. The maximum amount of port cargo credit allowed to all qualifying taxpayers continues to be \$8 million for each calendar year.

Special Credit Allocation for New Warehouse or Distribution Facility against Withholding Tax – Amended. The Coordinating Council may annually award up to \$1 million of the \$8 million port cargo credit against employee withholdings, that are not otherwise refundable, to a new warehouse or distribution facility which commits to spend at least \$40 million at a single site and create 100 new full-time jobs, if the base year cargo is not less than 5,000 twenty-foot equivalent units or its non-containerized equivalent. If the credit exceeds the taxpayer’s withholding tax liability for the taxable quarter that is not otherwise refundable, the excess may be carried forward in the next 20 succeeding quarters and claimed against withholding liability that is not otherwise refundable. If a taxpayer receives the credit but fails to timely meet the requirements, the taxpayer must repay a pro rata portion of the credit claimed. Previously, this provision did not specify the use of the credit against withholding tax, provide for the credit carryover against withholding tax for 20 quarters, contain base year cargo provisions, or require credit repayment if credit requirements were not met.

New Special Credit Eligibility for Anticipated Distribution Facility. A provision has been added to allow eligibility for the port cargo credit to a taxpayer engaged in the movement of goods imported or exported through South Carolina's port facilities if the cargo supports a presence in South Carolina and the taxpayer does not have a distribution center in South Carolina at the time of initial approval of the credit provided: (1) the taxpayer employs at least 250 full-time or full-time equivalent South Carolinians in operations statewide, (2) the taxpayer completes the construction of the distribution facility in South Carolina, and is operational, within 5 years of the initial approval of the credit, and (3) the base year for the taxpayer is 5,000 twenty-foot equivalent units or its non-containerized equivalent or more. The credit certificate expires 3 years after issuance if satisfactory proof has not been received. If a taxpayer receives the credit but fails to meet the requirements at the end of the 5 year period, the taxpayer must repay a pro rata portion of the credit claimed.

Effective Date: Tax years beginning after December 31, 2013.

PROPERTY TAXES and FEES IN LIEU OF PROPERTY TAXES

House Bill 3027, Section 1 (Act No. 133)

Armed Forces Member Residential Property – Eligibility for 4% Assessment Ratio Expanded

Code Section 12-43-220(c)(2)(v), allowing the 4% property tax assessment ratio for a member of the United States Armed Forces on active duty whose permanent duty station is South Carolina, but whose legal residence and domicile is another state, has been expanded as summarized below.

Code Section 12-43-220(c)(2)(v)(B) has been added to provide that an active duty member of the United States Armed Forces eligible for and receiving the 4% assessment ratio who receives orders for a permanent change of station or a temporary duty assignment for at least one year, may retain the 4% assessment ratio and applicable exemptions for so long as he remains on active duty, regardless of his subsequent relocation and regardless of any rental income attributable to the property. This provision does not apply if the member or member of his household claims the 4% assessment ratio for any other residential property located in South Carolina (see exception in Code Section 12-43-220(c)(2)(v)(C) discussed below). Code Section 12-43-220(c)(2)(iii) defines “a member of my household.”

Notwithstanding any other provision, Code Section 12-43-220(c)(2)(v)(C) provides that an active duty member of the United States Armed Forces meeting all the other applicable eligibility requirements for the 4% assessment ratio, who receives orders for a permanent change of station or a temporary duty assignment for at least one year, may claim the 4% assessment ratio and applicable exemptions for two residential properties located in South Carolina for no more than two property tax years providing the member: (a) attempts to sell the first acquired residence within 30 days of acquiring the second residence and (b) continues to attempt to sell the first acquired residence in any year in which the 4% assessment ratio is claimed.

The member must apply for the 4% assessment ratio on both residences before the first penalty date for the payment of taxes for the tax year for which the member first claims eligibility. The burden of proof for eligibility on both residences is on the member. The member must provide the proof the assessor requires, including, but not limited to, a copy of the member’s most recently filed South Carolina individual income tax return and copies of South Carolina motor vehicle registrations for all motor vehicles registered in the member’s name.

In order to qualify, the owner or the owner’s agent must apply to the county assessor by May 15th of each year. Along with the application, the owner must submit a Leave and Earnings Statement (LES) from the current calendar year. Any information contained in the LES not related to the active duty status of the owner may be redacted. The term “owner” includes the spouse of the active duty member who jointly owns the qualifying property.

The 4% assessment ratio allowed by Code Section 12-43-220(c)(2)(v) must be construed as a property tax exemption for an amount of the fair market value of the residence sufficient to equal a 4% assessment ratio and other exemptions allowed applicable to the qualifying property.

Effective Date: Applies to property tax years beginning after 2013.

Senate Bill 437, Section 1 (Act No. 259)

Residence Rented 72 Days of Less - Eligibility for 4% Assessment Ratio

Code Section 12-43-220(c)(2)(iv) has been amended to provide that the owner of a residence that is not rented for more than 72 days in a calendar year is eligible for a 4% assessment ratio provided the owner or the owner's agent has made a proper certification as required by Code Section 12-43-220(c)(2)(ii) in the application and the owner is otherwise eligible for the 4% assessment ratio.

For purposes of determining eligibility, rental income, and residency, the assessor annually may require a copy of applicable portions of the owner's federal and state tax returns, as well as the Schedule E, "Supplemental Income and Loss," from the applicant's federal tax return for the applicable tax year.

As a result of the above amendment, Code Section 12-43-220(c)(7) has been deleted. This provision had allowed an owner-occupied home rented for less than 15 days during the calendar year to remain eligible for the 4% assessment ratio.

Effective Date: Applies to property tax years beginning after 2013.

Senate Bill 437, Section 5 (Act No. 259)

Partial Ownership Interest in Residence – Eligibility for 4% Assessment Ratio

Code Section 12-43-220(c)(8) provides limitations on the amount of the 4% assessment ratio applied to the value of the residence when an individual (other than a spouse) has an ownership interest in the residence that is less than 50%. Subitem (iii) has been added to provide that Code Section 12-43-220(c)(8) does not apply to property held exclusively by:

1. An applicant, or the applicant and the applicant's spouse;
2. A trust if the person claiming the 4% assessment ratio is the grantor or settlor of the trust, and the only beneficiaries of the trust are the grantor or settlor and any parent, spouse, child, grandchild, or sibling of the grantor or settlor;

3. A family limited partnership if the person claiming the 4% assessment ratio transferred the subject property to the partnership, and the only members of the partnership are the person and the person's parents, spouse, children, grandchildren, or siblings;
4. A limited liability company ("LLC") if the person claiming the 4% assessment ratio transferred the subject property to the LLC, and the only members of the LLC are the person and the person's parents, spouse, children, grandchildren, or siblings; or
5. Any combination thereof.

This exception, however, does not apply if the applicant does not otherwise qualify for the 4% assessment ratio, including the requirement that the applicant, nor any member of the applicant's household, claims the 4% assessment ratio on another residence.

Effective Date: Applies to property tax years beginning after 2011.

Note: If the property tax assessor determines that a person denied the 4% assessment ratio in property tax years 2012 or 2013 now qualifies for the 4% assessment ratio under Code Section 12-43-220(c)(8), the person must be refunded any property taxes paid in excess of the amount owed.

Senate Bill 437, Section 6 (Act No. 259)

Rental of Portion of Legal Residence - Eligibility for 4% Assessment Ratio

Code Section 12-43-220(c)(1), which provides for a 4% property tax assessment ratio for owner-occupied legal residences, has been amended to add that if the owner applying for the 4% assessment ratio resides in the mobile home or single family residence and only rents a portion of it to another individual as a residence, then the 4% assessment ratio is applied to the entire mobile home or single family residence.

The statute continues to provide that if this property has located on it any rented mobile homes or residences which are rented or any business for profit that the 4% value does not apply to those businesses or rental properties.

Effective Date: June 9, 2014

Senate Bill 825, Section 2 (Act No. 289)

Property on Military Base Used for Military Housing - Exempt

The "Military Family Quality of Life Enhancement Act of 2014" has added Code Section 3-1-40 to provide a property tax exemption for any real property, and improvements thereon, located within a military base or installation that is used or owned by the U.S. Armed Forces and is used as military housing for military-affiliated personnel and their families. Military housing includes ancillary facilities that support the military housing.

This exemption continues to apply if the real property is improved, maintained, or leased to a party that would otherwise subject the real property to tax, provided there is a contractual agreement between a branch of the U.S. Armed Forces and the party which requires the party to use the property for military housing.

Effective Date: Applies to property tax years beginning after 2013.

Senate Bill 437, Section 4 (Act No. 259)

Exemption Added for Certain Trusts for the Benefit of a Religious Organization

Code Sections 12-37-220(B)(16)(a) and (b) have been amended to add that the property of a trust may qualify for the exemption providing the trust is a trust established solely for the benefit of a religious organization.

Code Section 12-37-220(B)(16)(a) now provides an exemption for the property of any religious, charitable, eleemosynary, educational, or literary society, corporation, trust, or other association, when the property is used by it primarily for the holding of its meetings and the conduct of the business of the society, corporation, trust, or association and no profit or benefit inures to the any private stockholder or individual.

Code Section 12-37-220(B)(16)(b) now provides an exemption for the property of any religious, charitable or eleemosynary society, corporation, trust, or other association when the property is acquired for the purpose of building or renovating residential structures on it for not-for-profit sale to economically disadvantaged persons.

Effective Date: Applies to property tax years beginning after 2013.

House Bill 4944 (Act No. 277)

Multiple Lot Discount – Additional Year of Eligibility

Code Section 12-43-225, which allows a discounted value for property subdivided into at least ten building lots in a plat recorded on or after January 1, 2001, has been amended. Subsection (A) states that the discount provided in subsection (B) applies for 5 property tax years or until the lot is sold or a certificate of occupancy is issued for the improvement on the lot, or the improvement is occupied, whichever is first. When the discount allowed by this section no longer applies, the lots must be individually valued.

Subsection (D)(1) has been expanded to provide an additional year of eligibility in property tax year 2015 and now provides that for lots that received the discount on December 31, 2011, there is granted an additional year of eligibility for that discount in property tax year 2015, in addition to any remaining period for the discount provided in subsection (B).

Subsection (C) allows the discounted value to apply to a lot sold to the holder of a residential homebuilder's license or a general contractor's license through the first tax year that ends 12 months from the date of the sale under certain circumstances. Item (D)(2) has been expanded to provide an additional year of eligibility in property tax year 2015 and now provides that lots that received the discount after December 31, 2008 and before January 1, 2012 are allowed an additional year of eligibility for that discount in property tax year 2015.

Effective Date: Applies to property tax years beginning after 2013.

REENACTED TEMPORARY PROVISOS

The following temporary provisos were enacted in prior legislative sessions and were reenacted by the General Assembly in 2014. Temporary provisos are effective for the State fiscal year July 1, 2014 through June 30, 2015, and will expire June 30, 2015, unless reenacted by the General Assembly in the next legislative session.

House Bill 4701, Part IB, Section 1, Proviso 1.62 (Act No. 286)

Index of Taxpaying Ability – Imputed Value for Owner-Occupied Residential Property

The index of taxpaying ability is used to determine state funding for education under the Education Finance Act of 1977, Chapter 20, Title 59. This index, prepared by the Department, shows a local school district's relative fiscal capacity in relation to that of all other districts in the state based on the full market value of all taxable property of the district assessed for ad valorem taxes for the second completed property tax year preceding the fiscal year in which the index is used.

Code Section 12-37-220(B)(47) exempts 100% of the fair market value of owner-occupied residential property receiving a 4% assessment ratio from all property taxes imposed for school operating purposes. School districts are reimbursed for lost revenue based on a 3 tier formula set forth in Code Section 11-11-156.

This temporary proviso clarifies that, for the current fiscal year an index value for the exempt owner-occupied residential property must be imputed by adding the second preceding taxable year total school district reimbursements for Tiers 1, 2 and 3(A) of the 3 tier formula and not to include the supplement distribution. The Department shall not include sales ratio data in its calculation of the index of taxpaying ability. The methodology for the calculation of value for classes of property other than exempt owner-occupied residential property is not affected by this temporary proviso.

House Bill 4701, Part IB, Section 117, Proviso 117.41 (Act No. 286)

Personal Property Tax Relief Fund Not Funded

This temporary proviso provides that the Personal Property Tax Relief Fund established under Code Section 12-37-2735 to help counties fund the reduction of ad valorem taxes on personal motor vehicles is suspended.

This proviso continues to provide that if a county imposes a personal property tax exemption sales tax in an effort to reduce ad valorem taxes on personal motor vehicles and the 2% sales tax rate on gross proceeds of sales is insufficient to offset the property tax not collected, sufficient amounts must be credited to the Trust Fund for Tax Relief established under Code Section 11-11-150 to provide reimbursement to offset the shortfall in the manner provided in Code Section 4-10-540(A).

Note: As of the date of this publication, no county has reduced the ad valorem taxes on personal motor vehicles by imposing this sales tax.

SALES AND USE TAXES

House Bill 3561 (Act No. 172) and Senate Bill 437, Section 3 (Act No. 259)

“Additional Guest Charges” at Places Furnishing Accommodations - Amended

Code Section 12-36-920(B), imposing a 6% sales tax on “additional guest charges” at places that furnish accommodations to transients for a consideration unless otherwise taxed under Chapter 36, Title 12, has been substantially amended. Additional guest charges are now limited to charges for: (1) room service, (2) laundering and dry cleaning services, (3) in-room movies, (4) telephone service, and (5) rentals of meeting rooms. Charges for (1) amenities, (2) entertainment, (3) special items in promotional tourist packages, and (4) other guest services are no longer listed as an additional guest charge.

Effective Date: July 1, 2014

Senate Bill 437, Section 3 (Act No. 259) and House Bill 3561 (Act No. 172)

Residence Rented Under 15 Days - Not Subject to Sales Tax on Accommodations

Code Section 12-36-920(A), which imposes a sales tax on accommodations, has been amended to exclude from tax the gross proceeds from rental income that is wholly excluded from the gross income of the taxpayer pursuant to Internal Revenue Code Section 280A(g).

Internal Revenue Code Section 280A(g) allows a taxpayer to exclude from gross income the rental income derived from a dwelling unit used during the tax year by the taxpayer as a residence, provided that the dwelling unit is rented for less than 15 days during the tax year.

Effective Date: June 9, 2014

REENACTED TEMPORARY PROVISOS

The following temporary provisos were enacted in prior legislative sessions and were reenacted by the General Assembly in 2014. Temporary provisos are effective for the State fiscal year July 1, 2014 through June 30, 2015, and will expire June 30, 2015, unless reenacted by the General Assembly in the next legislative session.

House Bill 4701, Part IB, Section 117, Proviso 117.65 (Act No. 286)

Viscosupplementation Therapies - Sales and Use Tax Suspended

For this State fiscal year, the sales and use taxes on viscosupplementation therapies is suspended. No refund or forgiveness of tax may be claimed as a result of this provision.

House Bill 4701, Part IB, Section 117, Proviso 117.61 (Act No. 286)

Respiratory Syncytial Virus Medicines Exemption - Effective Date

Act 69, Section 3.PP, of 2003 amended Code Section 12-36-2120(28)(a) to add a sales and use tax exemption for prescription medicines used to prevent respiratory syncytial virus; it was effective for sales on or after June 18, 2003. This temporary proviso changes the effective date of this exemption to January 1, 1999 and provides that no refund of sales and use taxes may be claimed as a result of this change in the effective date.

House Bill 4701, Part IB, Section 117, Proviso 117.40 (Act No. 286)

Private Schools - Use Tax Exemption

This temporary proviso exempts purchases of tangible personal property for use in private primary and secondary schools, including kindergarten and early childhood education programs, from the use tax if the school is exempt from income taxes under Internal Revenue Code Section 501(c)(3). This exemption does not apply to purchases subject to sales tax. See SC Regulation 117-334 for information as to which tax, the sales tax or the use tax, applies when goods are shipped into South Carolina. This use tax exemption is also applicable to purchases occurring after 1995; however, no refund is due any taxpayer on purchases exempted by this provision.

REMINDER

The following provision was enacted in a prior year but is effective in 2014 or thereafter. It is summarized below for informational purposes.

House Bill 3747 (Act No. 235)

Certain Injectable Medications and Injectable Biologics - Exemption Phased-In

Code Section 12-36-2120(80) has been added to exempt injectable medications and injectable biologics, so long as the medication or biologic is administered by or pursuant to the supervision of a physician in an office which is under the supervision of a physician, or in a Center for Medicare or Medicaid Services certified kidney dialysis facility.

For purposes of this exemption, “biologics” means the products that are applicable to the prevention, treatment, or cure of a disease or condition of human beings and that are produced using living organisms, materials derived from living organisms, or cellular, subcellular, or molecular components of living organisms.

This exemption will be phased-in based on the annual general fund growth as determined by the Board of Economic Advisors (“BEA”).

Effective Date: For sales beginning July 1 following the February 15 forecast meeting the 2% growth requirement.

Note: On February 19, 2014, the BEA notified the Department that the requirements had been met to implement this exemption. Accordingly, for July 1, 2014 – June 30, 2015, 50% of the gross proceeds of qualifying sales or purchases are exempt from the State and local sales and use taxes.

On or after July 1, 2015, qualifying sales or purchases are fully exempt from the State and local sales and use taxes. See SC Information Letter #14-4.

MISCELLANEOUS

(Summarized by Subject Matter)

ADMINISTRATIVE and PROCEDURAL MATTERS

Senate Bill 437, Section 2 (Act No. 259)

Federal Schedule E Filed – Disclosure Permitted

Code Section 12-54-240(B), relating to disclosure of certain reports and returns filed with the Department, has been amended to add an item allowing verification that federal Schedule E, “Supplemental Income and Loss (From rental real estate, royalties, partnerships, S corporations, estates, trusts, REMICs, etc.)”, filed with the Department is the same as the Schedule E required by the assessor pursuant to Code Section 12-43-220(c).

Effective Date: June 9, 2014

Senate Bill 985, Sections 3 and 4 (Act No. 261)

“Fairness in Lodging Act” – Disclosure and Duties of the Department

The “Fairness in Lodging Act” was enacted in Article 8, Chapter 1, Title 6 for the purpose of providing municipalities and counties the option of exercising additional enforcement authority and data sharing with the Department with respect to individuals who rent residential accommodations to tourists and fail to remit the local accommodations tax imposed under Article 5 of Chapter 1, Title 6 and the state sales tax on accommodations under Code Section 12-36-920.

A summary of the Fairness in Lodging Act applicable to counties and municipalities is provided below in the “Other Items” section below. The Act provisions directly applicable to the Department include:

1. Disclosure and Data Sharing. Code Section 12-54-240(B), relating to disclosure of records, reports, and returns filed with the Department to other agencies or persons, has been amended. Subitem (13) now allows the Department to disclose and share data as provided under the Fairness in Lodging Act.
2. Duties of the Department. Code Section 12-4-310, listing the mandated powers and duties of the Department, has been amended. Subitem (11) has been added to require the Department to provide data and assistance to municipalities and counties that have implemented the Fairness in Lodging Act.

In addition, Code Section 6-1-825 in the Fairness in Lodging Act has been added to require the Department to identify websites containing “rent by owner” vacation rental opportunities and request that the website post a statement that the owner of South Carolina rental properties is required to be licensed and to collect applicable state and local taxes and fees.

Effective Date: June 9, 2014

MISCELLANEOUS TAX LEGISLATION

Senate Bill 474 (Act No. 242)

State Museum – Exempt from Admissions Tax

Code Section 12-21-2420(16) has been added to exempt admissions to the State Museum from the admissions tax imposed on places of amusement.

Effective Date: July 1, 2014

Senate Bill 437, Section 4 (Act No. 259)

Deed Recording Fee - Exemption for Transfers from Trust Expanded

An exemption from the deed recording fee in Code Section 12-24-40(8) has been expanded to exempt transfers of real property from a trust established for the benefit of a religious organization to the religious organization.

Effective Date: Applies to property tax years beginning after 2013.

OTHER ITEMS

Senate Bill 985, Sections 1 and 2 (Act No. 261)

“Fairness in Lodging Act” – New Authority to Enforce Local Accommodations Tax

The “Fairness in Lodging Act” was enacted in Article 8, Chapter 1, Title 6 to provide municipalities and counties the option of exercising additional enforcement authority and data sharing with the Department with respect to individuals who rent residential accommodations to tourists and fail to remit the local accommodations tax imposed under Article 5 of Chapter 1, Title 6 and the state sales tax on accommodations under Code Section 12-36-920.

Applicability of Act. A municipality or county that imposes a local accommodations tax under Article 5, Chapter 1, Title 6 may implement the provisions of the Act through an ordinance. Once the municipality or county has provided the Director of the Department with a certified copy of the ordinance, then the provisions of the Act will apply in the municipality or county. Code Section 6-1-815(A).

The provisions of this Act do not apply to 4% owner-occupied real property when all rental income from the real property is excluded from gross income for federal income tax purposes under Internal Revenue Code Section 280A(g). Code Section 6-1-815(B).

Information Shared in Determining Noncompliance. When the Act provisions apply in a jurisdiction, the Department and the implementing municipality or county shall share helpful data in determining possible instances of noncompliance using returns and other documents filed with or available to them. Code Section 6-1-820(A).

Information Included in Property Tax Notice. A municipality or county that has implemented the Act shall include a notice with its annual property tax notices for residential real property assessed at 6% pursuant to Code Section 12-43-220(e), as determined appropriate.

The notice must provide details of state and local accommodations taxes required to be paid by persons renting residential real property to tourists, the intention of the municipality or county to enforce these requirements, and specific information on obtaining additional information regarding these requirements and the names, addresses, and telephone numbers of the municipal or county officials able to answer questions, provide forms, and assist in compliance. Code Section 6-1-820(B).

Additional Penalty. In addition to the other penalties and interest imposed by the municipality or county for failure to comply with local accommodations tax requirements, the municipality or county may impose a one-time civil penalty for noncompliance for failure to collect and remit local accommodations tax. This additional penalty can be between \$500 to \$2,000 with respect to a single rental property for each seven days the property was rented, but may not be imposed unless the owner has received the notice required under the Act. For purposes of enforcement and collection, this penalty is deemed a property tax on the rental property. Code Section 6-1-820(C).

Data Sharing. Code Section 6-1-120(B)(3), which provides an exception to the general prohibition on disclosures of taxpayer information by municipal or county officials for data sharing between public officials and employees in the performance of their duties, has been amended to specifically include the sharing of data provided by the Fairness in Lodging Act.

Effective Date: June 9, 2014

Senate Bill 1033 (Act No. 220)

Emergency Related Infrastructure Work by an Out of State Business or Employee – 2013 Proviso Codified

General Tax, Registration and Licensing Requirements and Exemptions during Disaster Period. Code Section 12-2-110 provides that a business that does not have a presence in, or conduct business in, South Carolina whose services are requested by a business registered in South Carolina or by a state or local government for purposes of performing “disaster or emergency-related work” in South Carolina is exempt from state and local business registration and tax payment and filings during the “disaster period.” The “disaster period” begins within 10 days of the first day of notification by the Governor, President, or Director of the Department of a declared state disaster or emergency, whichever occurs first, and ends 60 days after the declared period ends, or any longer period authorized by the designated state official or agency.

Out of State Business Disaster Period Exemptions. An out of state business performing work or services in South Carolina related to a declared state disaster or emergency is not considered to have established a level of presence that would require it to register, file, and remit state and local taxes or require the business or its out of state employees to be subject to any state licensing or registration requirement.

Out of State Employee Disaster Period Exemptions. An out of state employee is not considered to have established residency or a presence in South Carolina that would require him or his employer to file and pay income taxes or be subject to tax withholdings or to file and pay any other state or local tax or fee during a disaster period resulting from his performance of disaster-related work.

Specific Tax, Registration and Licensing Exemptions. If an out of state business qualifies under this code section, it is exempt from all state or local business licensing or registration requirements (including South Carolina Public Service Commission and Secretary of State licensing and regulatory requirements) and is not required to register, file, or remit state and local taxes or fees, including unemployment insurance, state or local occupational licensing fees, sales and use tax, or property tax on equipment used or consumed during the disaster period. For purposes of state or local tax measured by net or gross income or receipts, all activity of the out of state business conducted in South Carolina pursuant to this code section is disregarded with respect to any filing requirements for that tax including the filing required for a unitary or combined group of which the out of state business may be a part.

Taxes and Fees Not Covered. Out of state businesses and employees are not exempt under this code section from transaction taxes and fees including, but not limited to, fuel taxes and fuel user fees or sales and use taxes on materials or services subject to sales and use tax, accommodations taxes, car rental taxes or fees that the out of state affiliated business or out of state employee purchases for use or consumption in South Carolina during the disaster period, unless the taxes or fees are otherwise exempt during a disaster period.

Notification of Responding Business to Department. An out of state business shall provide the Department a notification statement that it is in South Carolina for purposes of responding to a disaster or emergency. The statement must include the business name, state of domicile, principal business address, federal tax identification number, date of entry, and contact information. A registered business in South Carolina shall, upon request, provide this notification information for an out of state affiliate that enters South Carolina and also include contact information for the registered business.

In South Carolina After Declared Disaster. A business or employee that remains in South Carolina after the disaster period becomes subject to South Carolina's normal standards for establishing presence, residency or doing business and resulting requirements. They shall notify the Department and must comply with state and local registration, licensing, and filing requirements resulting from establishing business presence or residency in South Carolina.

Definitions. "Disaster or emergency related work" means repairing, renovating, installing, building, rendering services or other business activities that relate to infrastructure that has been damaged, impaired, or destroyed by the event precipitating the declared state disaster or emergency.

"Infrastructure" means property and equipment owned or used by communications networks, electric generation, transmission and distribution systems, gas distribution systems, water pipelines, and public roads and bridges and related support facilities that services multiple customers or citizens including, but not limited to, real and personal property such as buildings, offices, lines, poles, pipes, structures, and equipment.

"Declared state disaster or emergency" is a disaster or emergency event for which a:

1. Presidential declaration of a federal major disaster or emergency has been issued,
2. Governor's state of emergency proclamation has been issued, or
3. Good faith response effort is required and for which the Director of the Department designates the event as a disaster or emergency.

Effective Date: June 2, 2014

House Bill 4871 (Act No. 208)

Charter Schools Taxation – Amended

Code Section 59-40-140(K), relating to the taxation of charter schools, has been amended to read: “Charter schools are exempt from state and local taxation, except the sales tax, on their earnings and property whether owned or leased. Instruments of conveyance to or from a charter school are exempt from all types of taxation of local or state taxes and transfer fees.” The phrase “whether owned or leased” has been added.

Effective Date: June 2, 2014

Senate Bill 809 (Act No. 243)

Local Capital Project Sales Tax – Referendum Date Amended

A “local capital projects sales tax” is imposed by enacting an ordinance, subject to approval by voter referendum. Code Section 4-10-330(C) has been amended to delete a provision allowing the referendum for the reimposition of the capital project sales tax to be held at a time the governing body of the county and the Department determine. All referendums for which a referendum date had not been set by June 6, 2014 must be held at the time of the general election.

Effective Date: Applies to a referendum for which a referendum date had not been set by June 6, 2014.

Senate Bill 940, Section 1 (Act No. 290)

Education Capital Improvement Sales and Use Tax – County Eligibility

An “education capital improvements sales and use tax” may be imposed in a county upon approval by referendum for specific education capital improvements for the school district. Code Section 4-10-470 has been amended to expand the eligible criteria a county must meet to impose this tax.

The statute continues to provide that a county that collected at least \$7 million in state accommodations taxes pursuant to Code Section 12-36-920(A) in the most recent fiscal year for which full collection figures are available may impose the tax.

The following summarizes other criteria added that also allows a county to be authorized to impose the education capital improvement tax.

1. If at the time of the referendum, no portion of the county in which the tax is imposed is subject to more than 2% total local sales tax and the county in which the tax is to be imposed is encompassed completely by one entire school district, and that school district also extends into one adjacent county.

Imposition of the tax under this criteria has additional restrictions and requirements including, the tax may not be imposed for more than 10 calendar years and no other local sales tax may be imposed in that county if subsequent imposition causes the total sales tax to exceed 2% in any portion of the county. Code Section 4-10-470(B).

2. If the county or school district imposed a local sales and use tax to fund education capital improvements on January 1, 2014. The education capital improvements sales and use tax may be imposed pursuant to this subsection at any time after the local sales and use tax terminates. Code Section 4-10-470(C).
3. If the county only has one school district which encompasses the entire county area in which the tax is to be imposed and the county collected at least \$1 million in state accommodation taxes as imposed pursuant to Code Section 12-36-920(A) in the most recent fiscal year for which full collection figures are available. Once a county meets this threshold, it thereafter remains eligible to impose this tax pursuant to this subsection. Code Section 4-10-470(D).
4. If the county is comprised of more than one school district, and the county has a county board of education, and has no other local sales tax imposition at the time of the referendum.

Imposition of the tax under this criteria has additional restrictions and requirements including that at least 10% of the proceeds must be used to provide property tax relief by using the proceeds to offset the existing debt service millage levy on general obligation bonds. Once a county meets this criteria, it remains eligible to impose this tax pursuant to this subsection. Code Section 4-10-470(E).

5. If immediately prior to the imposition date, if approved, the county is imposing the local option sales tax imposed pursuant to Article 1, Chapter 10 of Title 4 and the county has not imposed that tax for 20 years or more, in which any portion of a calendar year counts as a year, and no other local sales and use tax that is administered by the Department is imposed in the county and the county collected at least \$100,000 in state accommodation taxes as imposed pursuant to Code Section 12-36-920(A) in the most recent fiscal year for which full collection figures are available. Once a county meets this criteria, it remains eligible to impose this tax pursuant to this subsection. Code Section 4-10-470(F).

Effective Date: June 24, 2014

Senate Bill 940, Section 2 (Act No. 290)

Education Capital Improvement Sales and Use Tax - Reimposition Referendum

Code Section 4-10-460, relating to the reimposition of the Education Capital Improvements Sales and Use Tax, has been amended with regard to the date a referendum must be held. The section now provides that the referendum on the question for reimposition must not be held earlier than within the calendar year which is two years before the calendar year in which the tax in effect is scheduled to terminate, but any reimposition is effective immediately upon the termination of the tax previously imposed.

Effective Date: June 24, 2014

Senate Bill 1085 (Act No. 229)

Local Sales and Use Tax for Transportation Facilities – Referendum Date and Imposition

A governing body of a county may impose up to a 1% sales and use tax to raise revenue for a transportation project. The tax is imposed by enacting an ordinance, subject to approval by voter referendum, and must be for a specific period of time, not to exceed 25 years. Amendments to the statute include:

1. Time of Referendum. The referendum for the initial imposition of the tax within a county and all subsequent referendums to impose, extend, or renew the tax must be held at the time of the general election. Code Section 4-37-30(A)(2).
2. Extension of Tax Imposition: If the local transportation sales and use tax has been imposed for less than the maximum 25 year term allowed, and the tax remains in effect, the county may call for a referendum to extend the term of the tax for up to 7 years, and thereafter call for referendums to extend the term of the tax for up to 7 years, for an aggregate total not to exceed 25 years. If a county extends the term of the tax, the statute establishes certain requirements for the referendum. Code Section 4-37-30(A)(4)(a).
3. Imposition Date: If the tax is approved in the referendum, the tax is imposed May 1st following the referendum. If the reimposition of the tax is approved in the referendum, the new or existing tax must be imposed, extended, or renewed immediately following the termination of the earlier imposed tax. If the certification is not made timely to the Department, the imposition is postponed for 12 months. Code Section 4-37-30(A)(4)(b).

Effective Date: June 2, 2014

Senate Bill 503 (Act No. 188)

Beach Preservation Act - New 1% Beach Preservation Fee Remitted to Local Governing Body

The “Beach Preservation Act,” has been added to Article 6, Chapter 1 of Title 6, to provide for the imposition, subject to a referendum, of a “beach preservation fee” not to exceed 1%.

The fee is imposed on the gross proceeds from the rental or charges for accommodations furnished to transients within the jurisdiction of a governing body of a “qualified coastal municipality” which are subject to the sales tax on accommodations under Code Section 12-36-920(A). A “qualified coastal municipality” is a municipality bordering on the Atlantic Ocean that has a public beach within its corporate limits and which imposes a local accommodations tax pursuant to Code Section 6-1-520 that does not exceed 1½% pursuant to the limitation imposed under Code Section 6-1-540.

Code Section 6-1-660 provides that the fee is remitted directly to the local governing body on a monthly, quarterly or annual basis, depending on the estimated amount of the average of the total of the tax imposed under Articles 5 and 6, Chapter 1 of Title 6

Effective Date: June 2, 2014

REGULATORY LEGISLATION

House Bill 4399, Section 2 (Act No. 253)

Powdered Alcohol Unlawful – New Misdemeanor and Exceptions

Code Section 61-6-4157 has been added concerning powdered alcohol, defined as alcohol prepared or sold in a powder form for either direct use or reconstitution. It is a misdemeanor for a person to use, offer for use, purchase, offer to purchase, sell, offer to sell, or possess powdered alcohol. In the case of a license to sell alcoholic liquor for on-premises consumption or for off-premises consumption, it is a misdemeanor for the license holder to use powdered alcohol as an alcoholic beverage. Exceptions are provided in the case of use of powdered alcohol for commercial uses or bona fide research purposes by any of the following: a health care provider that operates primarily for the purpose of conducting scientific research, a state institution, a private college or university or a pharmaceutical or biotechnology company.

The penalties upon conviction for a misdemeanor involving powdered alcohol are as follows:

Offense	Penalty
1st offense	not more than \$300 or imprisonment for not more than 30 days, or both
2nd offense	not more than \$750 or imprisonment for not more than 6 months, or both
3rd or subsequent offense	not more than \$3,000 or imprisonment for not more than 2 years, or both.

Note: Code Section 61-6-4157 is repealed effective June 6, 2015.

Effective Date: June 6, 2014

House Bill 3626 (Act No. 199)

Motorsports Entertainment Complex and Tennis Specific Complex – New Licensing Provisions for Beer and Wine and for Alcoholic Liquors Sold at These Locations

New licensing provisions have been added to Chapter 4, Title 61 (beer and wine) and Chapter 6, Title 61 (alcoholic liquor) for a qualifying motorsports entertainment complex or a tennis specific complex located in this State.

Locations – Definitions. The following definitions are provided for a “motorsport entertainment complex” and a “tennis specific complex:”

Motorsports entertainment complex: A motorsports facility, and its ancillary grounds and facilities, that (1) is a NASCAR-sanctioned motor speedway or racetrack that hosted at least one NASCAR Sprint Cup Series race in 2012 and continues to host at least one NASCAR Sprint Cup Series race, or any successor race featuring the same NASCAR Cup Series; (2) has at least 3 scheduled days each calendar year of motorsports events, and ancillary and incidental events to the motorsport events, that are sanctioned by a nationally or internationally recognized governing body of motorsports; and (3) engages in tourism promotion. Code Sections 61-4-515(D)(1) and 61-6-2016(D)(1). See Code Section 12-21-2425.

Tennis specific complex: A tennis facility, and its ancillary grounds and facilities, that (1) has at least 10,000 fixed seats for tennis patrons; (2) hosted one Women’s Tennis Association Premier tournament in 2013 and continues to host one such tournament in each year; and (3) engages in tourism promotion. Code Sections 61-4-515(D)(2) and 61-6-2016(D)(2).

Licenses – Beer and Wine. Code Section 61-4-515 was added to provide that a biennial permit may be issued to the owner, or his designee, of a qualifying complex located in this State to sell beer and wine for on-premises consumption at any occasion held on the grounds of the complex year round on any day of the week. No referendum is required. The Department may require proof that the location is a qualifying complex. The Department has discretion to specify the terms and conditions of the permit.

The nonrefundable filing fee and fees for the motorsports or tennis complex biennial permit are the same as for other biennial permits for on-premises consumption of beer and wine. Revenues from the fees must be used for the purposes provided in Code Section 61-4-510.

The permit holder is authorized to purchase beer and wine from licensed wholesalers.

The owner, or his designee, of a qualifying complex may designate particular areas within the complex where patrons of events who have paid an admission price to attend or guests who are attending private functions at the complex, whether or not a charge for attendance is made, may possess and consume beer and wine provided at their own expense or at the expense of the sponsor of the private function.

Licenses – Alcoholic Liquor by the Drink. Code Section 61-6-2016 was added to provide that a biennial license may be issued to the owner, or his designee, of a qualifying complex located in this State to sell alcoholic liquor by the drink for on-premises consumption at any occasion held on the grounds of the complex under the same terms and conditions provided in Code Section 61-4-515 (summarized above). No referendum is required. The Department may require proof that the location is a qualifying complex.

The nonrefundable filing fee and license fee are the same as for other biennial licenses for on-premises consumption of alcoholic liquor by the drink. In the event that the owner or his designee applies for both a permit to sell beer and wine for on-premises consumption and a license to sell alcoholic liquor by the drink for on-premises consumption, only one fee is required, which is the same as the fee for the 52 week local option permit under Code Section 61-6-2010 with the revenue therefrom used for the same purposes as provided in Code Section 61-6-2010.

The owner, or his designee, of a qualifying complex may designate particular areas within the complex where patrons of events who have paid an admission price to attend or guests who are attending private functions at the complex, whether or not a charge for attendance is made, may possess and consume alcoholic liquor by the drink provided at their own expense or at the expense of the sponsor of the private function.

Effective Date: June 2, 2014

House Bill 3512, Sections 2, 3 and 4 (Act No. 223)

Acquisition of Alcoholic Liquor by Retail Dealers – New Provisions

The Alcoholic Beverage Control Act, Chapter 6 of Title 61, regulates alcoholic liquor in South Carolina with provisions for licenses on three tiers including a retail dealer's license. In addition, as provided in Regulation 7-300.2, retail liquor dealers are barred from purchasing any alcoholic liquor except from a licensed wholesale dealer in this State. The following provisions of Chapter 6, Title 61 relating to acquisition of alcoholic liquor for resale by licensed retail dealers have been added or amended.

Transfers of Alcoholic Liquor Between Retail Dealers Prohibited - Penalties Amended.

Code Section 61-6-1500, which imposes certain restrictions on retail liquor dealers, has been amended. A retail dealer may not sell, barter, exchange, or give alcoholic liquor (or offer or permit these transactions) to a person the retail dealer knows is another retail dealer. Code Section 61-6-1500(A)(1)(f). Likewise, a retail dealer may not purchase, barter, exchange or receive alcoholic liquor (or offer or permit these transactions) from another retail dealer. Code Section 61-6-1500(A)(5). These restrictions apply without regard to the size of the container. Exceptions are provided for transfers between locations owned by the same retail dealer or as provided in Code Section 61-6-950 (transfer of liquor when a license is suspended or revoked or otherwise terminated).

New civil penalties have been added for an administrative violation license arising out of these prohibited transfers. A third or subsequent violation of Code Section 61-6-1500(A)(1)(f) within 3 years of the first violation must result in a mandatory suspension of the license or permit for a period of at least 30 days. A violation of Code Section 61-6-1500(A)(5) must result in a mandatory suspension of the license or permit for a period of at least 30 days.

Retail Liquor License Applicant – Certification of Purchases Exclusively from Wholesaler Required. Code Section 61-6-195 has been added to provide that the Department must not issue or renew a retail dealer’s license until the applicant has certified that the applicant has not purchased and will not purchase alcoholic liquor from another person who does not hold a wholesaler’s license.

Notice of Prohibition of Sales Among Retail Dealers Must Be Posted. Code Section 61-6-1530, which requires certain language to be included in signs posted in a retail liquor dealer’s place of business, has been amended to further require this language: “The purchase of alcoholic liquors from this location by or on behalf of another retail dealer is unlawful and will result in the suspension of the purchaser’s retail dealer’s license.” The Department must prescribe by regulation the size of the lettering and the location of the sign on the seller’s premises. See Regulation 7-200.5.

Effective Date: July 1, 2014

House Bill 3512, Section 6 (Act No. 223)

Sale of Alcoholic Liquor – Prohibited Days Amended

Code Section 61-6-4160, which makes it a misdemeanor to sell alcoholic liquor on certain days, has been amended to prohibit sales on Christmas Day. A previous prohibition of sales on statewide election days has been omitted.

Effective Date: June 2, 2014

House Bill 4399, Section 1 (Act No. 253)

Locations Seeking License to Sell Liquor for On-Premises Consumption – Consent in Case of Proximity to Church or Playground

Code Section 61-6-120, which bars new liquor licenses when the place of business is within 300 feet of any church, school or playground situated within a municipality, or 500 feet if situated outside a municipality, has been amended. Subsection (C) has been added to provide that a license to sell liquor for on-premises consumption may be issued if the decision-making body of each church, and the decision-making body of the owner of each playground, within these distance parameters affirmatively states that it does not object to issuance of the specific license sought. The distance parameters for schools are unchanged.

This new provision only applies to a permit for on-premises consumption of alcoholic liquors. In addition, the license applicant must provide the necessary statements from the decision-making body of each church and the decision-making body of the owner of each playground.

The Department may promulgate regulations necessary to implement the provisions of subsection (C).

Effective Date: June 6, 2014

House Bill 3512, Section 1 (Act No. 223)

Discounts on Sales of Alcoholic Liquor and Certain Nonalcoholic Items by Premiums, Coupons or Stamps – Amended

Code Section 61-6-1560 provides for discounts on nonalcoholic items, as well as alcoholic liquor, by a retail dealer, wholesaler, or producer through the use of premiums, coupons, or stamps redeemable by mail. An amendment clarifies that “nonalcoholic items” means those items listed in Code Section 61-6-1540(A).

In addition, Subsection (B) was added to provide that a retail dealer may offer a discount on the sale of alcoholic liquor or nonalcoholic items, listed in Code Section 61-6-1540(A), at the register through the use of premiums, coupons, or stamps. However, the retail dealer must provide the premiums, coupons, or stamps and solely bear all costs related to the discount, including, but not limited to, printing, redemption services, and the actual cost of the discount. Moreover, the discount must not be prohibited by any federal law.

Effective Date: July 1, 2014

Brewery – Sales for On-Premises Consumption

Code Section 61-4-1515, which authorizes South Carolina breweries to offer samples of beer brewed on the premises for on-premises consumption to consumers who tour the licensed premises and the entire brewing process, has been amended. New parameters for retail sales have been added, with an express provision that these parameters do not alter or amend the structure of the three tier laws of South Carolina and that certain restrictions on businesses operating at the producer and wholesale levels continue to apply.

Sales of Beer Brewed on the Premises. Breweries may sell beer brewed on the premises for on-premises consumption without the requirement that consumers take a full tour and without a separate license, if the following requirements are met:

1. Sales must be made within an area of the licensed premises that has been approved by the rules and regulations of the Department of Health and Environmental Control governing eating and drinking establishments and other food service establishments.
2. The brewery must comply with all state and local laws concerning hours of operation applicable to eating and drinking establishments and other food service establishments holding permits to sell beer and wine for on-premises consumption.
3. The brewery must comply with the discount pricing provisions of Code Section 61-4-160, applicable to persons holding permits to sell beer and wine for on-premises consumption.
4. The price for beer sold by the brewery must approximate retail prices generally charged for identical beverages by on-premises retailers elsewhere in the same county.
5. Consumers must not be intoxicated or under age 21.
6. The brewery must remit appropriate excise taxes, as well as appropriate sales and use taxes and local hospitality taxes.
7. Signage posted at each entrance and exit and other places visible during a tour must inform consumers of: (a) the alcoholic content by weight of beer available in the brewery and (b) the penalties for conviction for driving under the influence, unlawful transport of an alcoholic beverage container and unlawful transfer of alcohol to minors.
8. The brewery must provide South Carolina Department of Alcohol and Other Drug Abuse Services (DAODAS) approved training for its server staff.
9. The brewery must maintain liability insurance coverage of at least \$1 million for the biennial license period and provide proof of insurance to the State Law Enforcement Division (SLED) and the Department's Alcoholic Beverage Licensing section within 10 days of receiving its biennial license.

10. A wholesaler must not provide and a brewery must not accept services, equipment, fixtures, or free beer prohibited by Code Section 61-4-940(B), except those items authorized by Code Section 61-4-940(C).

11. The brewery must not discriminate in pricing at the producer or wholesaler levels.

Separate Permit to Sell Other Beer and Wine for On-Premises Consumption. A brewery with an area of its licensed premises approved by the rules and regulations of the Department of Health and Environmental Control governing eating and drinking establishments and other food service establishments may apply for a separate permit to sell beer and wine at retail for consumption within the approved area. The separate permit allows sales of wine and beer produced by another licensed producer and purchased from a wholesaler through the three tier distribution chain as set forth in Code Section 61-4-735 (wine) and 61-4-940 (beer).

Effective Date: June 2, 2014

REENACTED TEMPORARY PROVISOS

The following temporary provisos were enacted in prior legislative sessions and were reenacted by the General Assembly in 2014. Temporary provisos are effective for the State fiscal year July 1, 2014 through June 30, 2015, and will expire June 30, 2015, unless reenacted by the General Assembly in the next legislative session.

ADMINISTRATIVE and PROCEDURAL MATTERS

House Bill 4701, Part IB, Section 92, Proviso 92.10 (Act No. 286)

2% Reduction on Interest Rate on Tax Refunds

This temporary proviso decreases by 2% the interest rate for tax refunds paid during the current fiscal year. The revenue resulting from this reduction must be used for operations of the State's Guardian ad Litem Program.

House Bill 4701, Part IB, Section 117, Proviso 117.91(Act No. 286)

Additional 1% Reduction on Interest Rate on Tax Refunds

This temporary proviso decreases by 1% the interest rate for tax refunds paid during the current fiscal year, in addition to the 2% reduction reauthorized in Temporary Proviso 92.10 (for a total 3% interest rate reduction). Of the revenue resulting from this 1% reduction, \$300,000 must be used by the Senate for operating expenses of the Joint Citizens and Legislative Committee on Children. The remaining revenue must be used by the Department of Juvenile Justice for programs for mentoring or other alternatives to incarceration. The revenue resulting from the 2% reduction continues to be used for operations of the State's Guardian ad Litem Program.

House Bill 4701, Part IB, Section 106, Proviso 106.6 (Act No. 286)

Voluntary Website Posting of Tax Return Information for Candidates and Gubernatorial Appointees

This temporary proviso provides that the Department must develop a program to process inquiries from a candidate for an office in South Carolina or its political subdivisions or any gubernatorial appointee concerning that candidate's or appointee's state income tax filings. Upon request by the candidate or appointee in connection with his own income tax return, the Department must determine if the candidate or appointee has filed his annual state income tax returns for the past ten years, paid all income taxes due during that time period, and, if applicable, satisfied all judgments, liens, or other penalties for failure to pay income taxes when due.

Unless the candidate or appointee requests otherwise, the following information will be posted on the Department's website:

1. The candidate or appointee's name;
2. The years that the candidate or appointee was required to file income tax returns during the last ten years and any years that he was not required to file income tax returns;
3. Whether the candidate or appointee filed income tax returns in each of the ten years that he was required to file an income tax return;
4. Whether the candidate or appointee paid income taxes due each year that he was required to file an income tax return; and
5. Whether the candidate or appointee had a judgment, lien, or other penalty levied against him for failure to pay income taxes when due; the year of any levy; and whether the judgment, lien or other penalty has been satisfied.

A candidate or appointee's inquiry constitutes a waiver of confidentiality with the Department concerning the information posted. The Department may not post complete income tax returns.

MISCELLANEOUS

House Bill 4701, Part IB, Section 118, Proviso 118.19 (Act No. 286)

Admissions Tax Rebate – Motorsports Entertainment Complex Facility

This temporary proviso provides that up to \$114,000 in admissions tax revenue collected annually from all events held at a NASCAR sanctioned motor speedway or racetrack that hosts at least one race each year featuring the preeminent NASCAR cup series must be rebated to the motorsports entertainment complex facility in the current fiscal year to keep a NASCAR race at the facility.

House Bill 4701, Part IB, Section 106, Proviso 106.7 (Act No. 286)

Admissions Tax Exemption for Payment to Nonprofit Athletic Booster Organizations for Right to Purchase Athletic Event Season Tickets

Article 17, Chapter 21 of Title 12 provides for an admissions tax of 5% on paid admissions to places of amusement within South Carolina. Code Section 12-21-2420(4) provides that the admissions tax applies to paid admissions to all athletic events of any institution above the high school level.

This temporary proviso provides that any amount that an accredited college or university requires a season ticket holder to pay to a nonprofit athletic booster organization to receive the right to purchase athletic event tickets is exempt from admissions tax. The nonprofit athletic booster organization must be exempt from federal income taxation.

House Bill 4701, Part IB, Section 1, Proviso 1.17 (Act No. 286)

Local Government School Buses - Motor Fuel Tax Exemption

This temporary proviso provides that motor fuel used in school buses operated by school districts, other governmental agencies, and “head start” agencies is exempt from the state motor fuel tax. Note: Motor fuel used in school buses owned by the state is exempt from the state motor fuel tax under Code Section 12-28-710(12).

House Bill 4701, Part IB, Section 33, Proviso 33.11 (Act No. 286)

Nursing Home Bed Franchise Fee – Suspension

This temporary proviso reenacts the suspension of the nursing home bed franchise fee imposed on February 1, 2002, but subsequently suspended July 1, 2002.

REGULATORY

House Bill 4701, Part IB, Section 117, Proviso 117.116 (Act No. 286)

Donation of Alcoholic Liquors

This temporary proviso provides that a wholesaler may donate beer, wine, and alcoholic liquors to a nonprofit organization that has a license, including a temporary license, to serve the applicable beverage. This provision only applies if the event hosted by the nonprofit organization creates an economic impact on State revenues.

LIST OF TEMPORARY PROVISOS

Temporary provisos are enacted as part of the 2014 annual budget - House Bill 4701, Part IB (Act No. 286). They are effective only for the current State fiscal year (July 1, 2014 – June 30, 2015). They expire on June 30th, unless reenacted by the General Assembly.

The following is a list of new provisos enacted during this legislative session and a list of provisos that were enacted in prior fiscal years and reenacted during this legislative session. A brief summary of the provisos can be found in this publication under the applicable subject matter categories.

NEW PROVISOS

None

REENACTED PROVISOS

Income Taxes

- Proviso 1.80 Educational Credit for Exceptional Needs Children
- Proviso 1A.11 Teacher Supplies and Materials - Reimbursement Amount Not Taxable or Refundable Income Tax Credit
- Proviso 1A.12 Teacher of the Year Awards – Not Subject to South Carolina Income Tax
- Proviso 118.14 Consumer Protection Services – Individual Income Tax Deduction

Property Taxes

- Proviso 1.62 Index of Taxpaying Ability - Imputed Value for Owner-Occupied Residential Property
- Proviso 117.41 Personal Property Tax Relief Fund Not Funded

Sales and Use Taxes

- Proviso 117.40 Private Schools - Use Tax Exemption
- Proviso 117.61 Respiratory Syncytial Virus Medicines Exemption - Effective Date
- Proviso 117.65 Viscosupplementation Therapies - Sales and Use Tax Suspended

Miscellaneous (Administrative, Miscellaneous Taxes, Other, and Regulatory)

Administrative:

- Proviso 92.10 2% Reduction on Interest Rate on Tax Refunds
- Proviso 106.6 Voluntary Website Posting of Tax Return Information for Candidates and Gubernatorial Appointees
- Proviso 117.91 Additional 1% Reduction on Interest Rate on Tax Refunds

Miscellaneous:

- Proviso 1.17 Local Government School Buses - Motor Fuel Tax Exemption
- Proviso 33.11 Nursing Home Bed Franchise Fees - Suspension

- Proviso 106.7 Admissions Tax Exemption for Payment to Nonprofit Athletic Booster Organizations for Right to Purchase Athletic Event Season Tickets
Proviso 117.116 Donation of Alcoholic Liquors to Charitable Organizations
Proviso 118.19 Admissions Tax Rebate – Motorsports Entertainment Complex Facility

A complete copy of this legislation can be obtained from the South Carolina Legislature website at <http://www.scstatehouse.gov/> or the Department's website at: <http://www.sctax.org/Tax+Policy/New+Security+and+Identity+Theft+Legislation.htm>