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SC information letter #19-23

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STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

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SC INFORMATION LETTER #19-23

SUBJECT: Tax Legislative Update for 2019

DATE: September 10, 2019

AUTHORITY: S.C. Code Ann. Section 12-4-320 (2014)
S.C. Code Ann. Section 1-23-10(4) (2005)
SC Revenue Procedure #09-3

SCOPE: An Information Letter is a written statement issued to the public to announce general information useful in complying with the laws administered by the Department. An Information Letter has no precedential value.

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.

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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. It 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. It does not represent official Department policy. Please refer to the full text of the legislation for specific details and requirements.

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 can be obtained from the South Carolina Legislature’s website at scstatehouse.gov.

LIST OF BILLS BY SUBJECT CATEGORY

A list of significant changes in tax laws (both permanent and temporary) enacted during the 2019 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 reenacted, temporary provisos expire on June 30, 2020.

Also included are reminders of provisions which were enacted in a prior year but are being phased in or are effective in 2019 and thereafter. These provisions are indicated as “reminders” in the chart below.

This list is divided by subject matter with the bills listed in numeric order.

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

BILL #	ACT #	SUBJECT
314	45	Service as Preceptor for Clinical Rotations – New Credit and New Deduction
329	47	Geothermal Machinery and Equipment Credit – Temporarily Reinstated
408, Sec. 1	49	Sourcing Gross Receipts from Cable and Video Services – New Provision
408, Sec. 1	49	Cable Systems, Video Services, and Direct Broadcast Satellite Service – New Provision for Pass-Through Businesses
439, Sec. 1	37	Port Cargo Volume Credit and Port Transportation Credit – Maximum Credit Amount
439, Sec. 2	37	Port Transportation Credit – New
440, Sec. 1	50	Textile Credit – Amended
440, Sec. 2.A.	50	Abandoned Building Credit – Carryforwards after Credit Repeal
440, Sec. 2.B.	50	Abandoned Building Credit – Extension of Placed in Service Date
1043, Sec. 6.A.	265	Increase in Purchases of South Carolina Agricultural Products – New Credit – Reminder
3147, Sec. 1	272	Military Individual – Earned Income and Retirement Income – New Deduction – General Retirement and Age 65 and Older Deduction – Amended – Reminder
3516, Sec. 15	40	Motor Fuel User Fee Credit – New Refundable Credit – Reminder
3516, Sec. 16	40	South Carolina Earned Income Credit – New Credit – Reminder
3516, Sec. 17	40	Two-Wage Earner Credit – Credit Increased – Reminder
3595	15	Industry Partnership Fund Credit – Credit Amounts Amended
3985	16	Internal Revenue Code Conformity
3986	88	Palmetto ABLE Savings Program – New Name
4000, Proviso 1A.9	91	Teaching Supplies and Materials – Reimbursement Amount Not Taxable or Refundable Income Tax Credit – Reenacted Temporary Proviso
4000, Proviso 1A.10	91	Teacher of the Year Awards – Not Subject to South Carolina Income Tax – Reenacted Temporary Proviso
4000, Proviso 73.6	91	Energy Efficient Manufactured Homes – Credit Extended – New Temporary Proviso
4000, Proviso 117.121	91	Retail Facilities Revitalization Act – Repeal of Act Suspended – Reenacted Temporary Proviso

**INCOME TAXES, BANK TAXES, WITHHOLDING, and CORPORATE LICENSE FEES
(CONTINUED)**

4000, Proviso 118.10	91	Consumer Protection Services – Individual Income Tax Deduction – Reenacted Temporary Proviso
4000, Proviso 118.15	91	Individual Income Tax Refund (Rebate) – One Time \$50 Check – New Temporary Proviso
4133, Sec. 1, 2 & 3	77	Community Development Tax Credit – Amended and Extended
4133, Sec. 4	77	Solar Energy Property – New Credit
4243, Sec. 1, 5 & 9.A	83	Job Tax Credit – Professional Sports Team
4243, Sec. 8	83	Job Tax Credit – Credit Increase for Tier III and Tier IV Counties
4243, Sec. 10	83	Job Development Credit – Professional Sports Team

PROPERTY TAXES and FEES IN LIEU OF PROPERTY TAXES

BILL #	ACT #	SUBJECT
440, Sec. 1	50	Textile Credit – Amended
440, Sec. 2.A.	50	Abandoned Building Credit – Carryforwards after Credit Repeal
440, Sec. 2.B.	50	Abandoned Building Credit – Extension of Placed in Service Date
3516, Sec. 19	40	Manufacturing Property – New Partial Exemption – Reminder
3630	96	Federal Government Shutdown Assistance – Statutory Penalty Schedule Extended
3916	69	Motor Vehicle Taxation and Registration – Penalty Increased
4000, Proviso 1.47	91	Index of Taxpaying Ability – Imputed Value for Owner-Occupied Residential Property – Reenacted Temporary Proviso
4000, Proviso 109.12	91	Notification of Protest to Affected County and School District – Reenacted Temporary Proviso
4000, Proviso 113.8	91	Agricultural Use Exemption for Timberland – Impact of Additional County Requirements – Reenacted Temporary Proviso
4000, Proviso 117.37	91	Personal Property Tax Relief Fund – Reenacted Temporary Proviso
4000, Proviso 117.121	91	Retail Facilities Revitalization Act – Repeal of Act Suspended – Reenacted Temporary Proviso
4000, Proviso 117.128	91	Improvements to Property Damaged by Catastrophic Weather Event – Revised to Include Hurricane Florence and Extend Time for Improvements for Eligible Events – New Temporary Proviso
4715, Sec. 8	223	Boats and Watercraft – Property Taxes and New Registration and Titling Procedures – Reminder

SALES and USE TAXES

BILL #	ACT #	SUBJECT
214	21	Marketplace Facilitator
439, Sec. 3	37	Port Facility – Distribution Facility Eligibility

SALES and USE TAXES (CONTINUED)

4000, Provisos 50.20 and 117.127	91	Navy Base Intermodal Facility and State Ports Authority – Distribution Facility Eligibility – Reenacted Temporary Proviso
4000, Proviso 73.6	91	Certain Energy Efficient Manufactured Homes – Exemption Extended – New Temporary Proviso
4000, Proviso 109.13	91	Clothing Used in Perishable Prepared Food Manufacturing Facilities – New Exemption – New Temporary Proviso
4000, Proviso 117.36	91	Private Schools – Use Tax Exemption – Reenacted Temporary Proviso
4000, Proviso 117.56	91	Respiratory Syncytial Virus Medicines Exemption – Effective Date – Reenacted Temporary Proviso
4000, Proviso 117.60	91	Viscosupplementation Therapies – Sales and Use Tax Suspended – Reenacted Temporary Proviso

MISCELLANEOUS

BILL #	ACT #	SUBJECT
		Administrative and Procedural Matters
160	13	Department of Revenue Statewide Tax Lien Database – New System
323	46	Providing Debtor Information to Department by Financial Institutions
4000, Provisos 41.2 and 117.85	91	3% Reduction on Interest Rate on Tax Refunds – Reenacted Temporary Provisos
4000, Proviso 109.6	91	Voluntary Website Posting of Tax Return Information for Candidates and gubernatorial Appointees – Reenacted Temporary Proviso
		Miscellaneous Taxes
310, 3849, and 4000, Proviso 109.15	35 97 91	Unstamped Cigarettes – Declaration of Contraband and Grace Period for Certain Tax Paid Cigarettes Report Filing Deadline – New Temporary Proviso
3516, Sec. 2	40	Motor Fuel User Fee – Rate Changes – Reminder
4000, Proviso 1.14	91	Local Government School Buses – Motor Fuel User Fee Exemption – Reenacted Temporary Proviso
4000, Proviso 33.10	91	Nursing Home Bed Franchise Fee – Suspension – Reenacted Temporary Proviso
4000, Proviso 118.7	91	Admissions Tax Rebate – Motorsports, Tennis, and Soccer Facilities – Reenacted Temporary Proviso
4151	149	Cigarette Stamp Tax Program – New Process – Reminder
		Other Items
3180	23	South Carolina Servicemembers Civil Relief Act – New
3516, Sec. 3	40	Motor Carrier Road Tax – Rate Change – Reminder
3516, Sec. 8	40	New Motor Carrier Road Use Fee – Administered by the Department of Motor Vehicles – Reminder
3586	60	911 Service Charge – Amended

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

House Bill 3985 (Act No. 16)

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, 2018, 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 2019 the federal government extends, without otherwise amending, Internal Revenue Code provisions that expired on December 31, 2017, or during 2018, then these sections or portions of sections which have been adopted by South Carolina will be extended in the same manner that they are for federal income tax purposes.

Effective Date: March 28, 2019

House Bill 4000, Part IB, Section 118, Proviso 118.15 (Act No. 91)

Individual Income Tax Refund (Rebate) – One Time \$50 Check

This temporary proviso provides a \$50 refund to individual taxpayers, in part, from the increased income tax revenue from a \$1.5 billion Mega Millions winning lottery ticket sold in South Carolina in 2018. A check will be issued for each 2018 individual income tax return filed on or before October 15, 2019, that reports a South Carolina individual income tax liability, after credits, of \$50 or more. The check is to be issued by December 2, 2019. The Department may prorate the amount based upon actual funds and eligible returns.

Effective Date: This temporary proviso is effective for State fiscal year July 1, 2019 through June 30, 2020. It will expire June 30, 2020, unless reenacted by the General Assembly in the next legislative session.

House Bill 3986 (Act No. 88)

Palmetto ABLE Savings Program – New Name

The "South Carolina ABLE Savings Program" established in Title 11, Chapter 5, Article 3 in 2016, has been renamed the "Palmetto ABLE Savings Program." The purpose of the ABLE Program is to authorize the establishment of savings accounts empowering individuals with a

disability and their families to save private funds which can be used to provide for disability related expenses. Code Section 12-6-1140(12)(b) provides a deduction for earnings accrued on ABLE accounts.

Effective Date: May 24, 2019

Senate Bill 314 (Act No. 45)

Service as Preceptor for Clinical Rotations – New Credit and New Deduction

Overview. Code Section 12-6-3800 has been added to provide an income tax credit for eligible physicians, advanced practice registered nurses, or physician assistants who serve as a preceptor for qualifying clinical rotations required by a medical school, physician assistant program, or advanced practice nursing program. Code Section 12-6-1140(14) has been added to provide a deduction for additional rotations after the taxpayer has reached the credit maximum. Below is a summary of the credit and the deduction.

A. Preceptor Credit

Credit for Physician Preceptors. Code Section 12-6-3800(B) provides a credit for each clinical rotation a physician serves as preceptor for a qualifying medical school-required clinical rotation, advanced practice nursing program-required clinical rotation, or physician assistant program-required clinical rotation. The credit amount is as follows:

1. If at least 50% of the physician's practice consists of a combined total of Medicaid insured, Medicare insured, and self-pay patients, then the credit is equal to \$1,000 for each rotation served, not to exceed \$4,000 a year.
2. If at least 30% of the physician's practice consists of a combined total of Medicaid insured, Medicare insured, and self-pay patients, then the credit is equal to \$750 for each rotation served, not to exceed \$3,000 a year.

Credit for Advanced Practice Registered Nurse and Physician Assistant Preceptors. Code Section 12-6-3800(C) provides a credit for each clinical rotation an advanced practice registered nurse or physician assistant serves as preceptor for a qualifying advanced practice nursing program-required clinical rotation or physician assistant program-required clinical rotation. The credit amount is as follows:

1. If at least 50% of the advanced practice registered nurse's or physician assistant's practice consists of a combined total of Medicaid insured, Medicare insured, and self-pay patients, then the credit is equal to \$750 for each rotation served, not to exceed \$3,000 a year.

- If at least 30% of the advanced practice registered nurse's or physician assistant's practice consists of a combined total of Medicaid insured, Medicare insured, and self-pay patients, then the credit is equal to \$500 for each rotation served, not to exceed \$2,000 a year.

Phase In. The credit is phased in over five years in equal and cumulative installments beginning in tax year 2020. The phased-in credit amounts are provided below and reflect completion of the maximum of four allowed rotations during the year.

Eligible Taxpayer: Physician Preceptor				
	If 50% or More of Practice is Medicaid, Medicare, and Self Pay:		If 30% or More of Practice is Medicaid, Medicare, and Self Pay:	
Tax Year	Credit Per Rotation (x)	Maximum Credit Per Year (4x)	Credit Per Rotation (x)	Maximum Credit Per Year (4x)
2020	\$200	\$800	\$150	\$600
2021	\$400	\$1,600	\$300	\$1,200
2022	\$600	\$2,400	\$450	\$1,800
2023	\$800	\$3,200	\$600	\$2,400
2024	\$1,000	\$4,000	\$750	\$3,000
2025	\$1,000	\$4,000	\$750	\$3,000
2026	Credit Repealed			

Eligible Taxpayer: Advanced Practice Registered Nurse or Physician Assistant Preceptor				
	If 50% or More of Practice is Medicaid, Medicare, and Self Pay:		If 30% or More of Practice is Medicaid, Medicare, and Self Pay:	
Tax Year	Credit Per Rotation (x)	Maximum Credit Per Year (4x)	Credit Per Rotation (x)	Maximum Credit Per Year (4x)
2020	\$150	\$600	\$100	\$400
2021	\$300	\$1,200	\$200	\$800
2022	\$450	\$1,800	\$300	\$1,200
2023	\$600	\$2,400	\$400	\$1,600
2024	\$750	\$3,000	\$500	\$2,000
2025	\$750	\$3,000	\$500	\$2,000
2026	Credit Repealed			

Credit Limit and Carryforward. Credits are considered to be earned in the tax year in which the rotation is served. The taxpayer may claim 50% of the credit in the tax year the credit is earned and 50% the following tax year. The credit claimed in a tax year may not exceed 50% of the taxpayer's remaining tax liability after all other credits have been applied. Any unused credit may be carried forward to the following year, except that a carryforward may not be used for a tax year that begins more than 10 years from the year the credit was earned. Code Section 12-6-3800(D).

B. Deduction Allowed for Taxpayers Who Maximize the Credit

If a taxpayer earns the maximum annual credit amount allowed by Code Section 12-6-3800(B) or (C), and the taxpayer serves as preceptor for additional rotations that otherwise would have qualified for the credit, then the taxpayer may claim a deduction in an amount equal to the amount that the credit would have equaled. The taxpayer may earn this deduction up to six times a tax year. The deduction is also subject to phase in. Code Section 12-6-1140(14) has been added to provide for this deduction.

C. Other Requirements and Limitations of the Credit and Deduction

Other requirements and limitations include:

1. A preceptor must provide a minimum of two program-required clinical rotations within a calendar year.
2. The preceptor cannot be otherwise compensated for serving as a preceptor.
3. The credit and deduction are not cumulative and may not be combined.

D. Definitions

“Preceptor” means a physician, advanced practice nurse practitioner, or physician assistant who provides supervision and instruction during student clinical training experiences, is otherwise not compensated for doing so, and provides a minimum of two required clinical rotations within a calendar year. Code Section 12-6-3800(A)(3). Definitions are also provided for: “independent institution of higher learning,” “medical school-required clinical rotation,” “physician assistant program-required clinical rotation,” and “advanced practice nursing program-required clinical rotation.”

E. Reporting by Department

By March 31 of each year the credit is allowed, the Department is required to report to the Senate Finance Committee, the House of Representatives Ways and Means Committee, and the Governor the number of taxpayers claiming the credit, the total amount of credits allowed, and the number of hours that the recipient taxpayers served as preceptors. Code Section 12-6-3800(F).

Repeal Date: January 1, 2026

Effective Date: Applies to tax years 2020 through 2025

House Bill 4000, Part IB, Section 73, Proviso 73.6 (Act No. 91)

Energy Efficient Manufactured Home – Credit Extended

Code Section 48-52-870 was enacted in 2008 (Act No. 354) to provide a \$750 nonrefundable income tax credit to any person who purchases from a retail dealership licensed by the South Carolina Manufactured Housing Board for use in South Carolina a manufactured home designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each agency’s energy saving efficiency requirements or designated as meeting or exceeding such requirements under each agency’s ENERGY STAR program. The income tax credit was effective from July 1, 2009 through July 1, 2019.

This temporary proviso extends the credit for purchases of qualifying manufactured homes through June 30, 2020.

Effective Date: This temporary proviso is effective for State fiscal year July 1, 2019 through June 30, 2020. It will expire June 30, 2020, unless reenacted by the General Assembly in the next legislative session.

Senate Bill 408, Section 1 (Act No. 49)

Sourcing Gross Receipts from Cable and Video Services – New Provision

Code Section 12-6-2290 requires a multistate taxpayer whose principal profits or income are derived from providing services to apportion net income after allocation using a fraction in which the numerator is the taxpayer’s gross receipts from within South Carolina and the denominator is the taxpayer’s gross receipts from everywhere. Code Section 12-6-2295 provides a non-exhaustive list of items that are included in “gross receipts” for purposes of apportionment under Code Section 12-6-2290. Code Section 12-6-2295(A)(7), which previously only addressed apportionment of receipts from the provision of direct broadcast satellite service, has been expanded to address receipts from the operation of cable systems and receipts from video service.

Under Code Section 12-6-2295(A)(7), “gross receipts” now includes receipts from the operation of a cable system (as defined in Code Section 58-12-300), including receipts from cable service and receipts from services provided over the network that are associated with or classified as noncable or nonvideo services under federal law, and receipts from video service (as defined in Code Section 58-12-300) that are attributable to South Carolina in pro rata proportion of the costs of performing the service, including the costs of acquiring programming distribution rights and constructing and maintaining distribution infrastructure, that the service provider incurs within South Carolina.

Effective Date: May 16, 2019, and applies to all open tax periods excluding assessments under judicial review as of May 16, 2019.

Senate Bill 408, Section 1 (Act No. 49)

Cable Systems, Video Service, and Direct Broadcast Satellite Service – New Provision for Pass-Through Businesses

Code Section 12-6-2295(A)(7), relating to the sourcing of receipts from the operation of cable systems, video service, and direct broadcast satellite services, has been amended to provide that if a pass-through business operates a cable system or a direct broadcast satellite service, or if it has receipts from video service, then a corporation that owns an interest in that pass-through business, either directly or indirectly, must be treated as operating a cable system or a direct broadcast satellite service, or as having receipts from video service.

Effective Date: May 16, 2019, and applies to all open tax periods excluding assessments under judicial review as of May 16, 2019.

House Bill 4133, Section 4 (Act No. 77)

Solar Energy Property – New Credit

Code Section 12-6-3775 has been added to provide an income tax credit equal to 25% of the cost, including the cost of installation, of a solar energy property. “Solar energy property” is defined as any nonresidential solar energy equipment with a nameplate capacity of at least 1,900 kw AC that uses solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, daylighting, generating electricity, distillation, desalination, detoxification, or the production of industrial or commercial process heat. The term also includes related devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy.

In order to qualify for the credit, the taxpayer must construct, purchase, or lease a solar energy property located in South Carolina and place it in service in South Carolina. In addition, the property must be located on (1) the Environmental Protection Agency’s (“EPA”) National Priority List; (2) the EPA’s National Priority List Equivalent Sites; (3) a list of related removal actions, as certified by the Department of Health and Environmental Control (“DHEC”); (4) land that is subject to a Voluntary Cleanup Contract with DHEC as of December 31, 2017 or to corrective action under the Federal Resource Conservation and Recovery Act of 1976; or (5) land that is owned by the Pinewood Site Custodial Trust.

The credit is earned in the year in which the solar energy property is placed in service but must be taken in five equal annual installments, beginning in the year in which the solar energy property is placed in service. Any unused credit may be carried forward for five tax years.

The following restrictions apply:

1. A credit for each installation of solar energy property placed in service may not exceed \$2.5 million. The credit is allowed on a first-come, first-served basis, and the total amount of credits available to be taken, pursuant to the five equal annual installments, for all taxpayers in a taxable year, may not exceed \$2.5 million in the aggregate. Code Section 12-6-3775(D).
2. A taxpayer who claims any other state credit allowed with respect to solar energy property may not take this credit with respect to the same property. Code Section 12-6-3775(E).
3. A taxpayer may not take the credit allowed in Code Section 12-6-3775 for solar energy property that the taxpayer leases from another unless the taxpayer obtains the lessor's written certification that the lessor will not claim this credit with respect to this property. A lessor shall give a taxpayer who leases solar energy property from him a statement that describes the solar energy property and states the cost of the property upon request. Code Section 12-6-3775(B)(2) and (E).
4. A credit is not allowed if the cost of the solar energy property is provided by public funds. "Public funds" does not include federal grants or tax credits. Code Section 12-6-3775(B)(2).
5. If the solar energy property with respect to which the credit was claimed is disposed of, taken out of service, or moved out of South Carolina in a year in which the installment of a credit accrues, then the credit expires and the taxpayer may not take any remaining installments of the credit. Code Section 12-6-3775(C).

Repeal Date: December 31, 2021. If the credit is earned before the repeal, then Code Section 12-6-3775 continues to apply until the credits have been fully claimed.

Effective Date: Tax years beginning after 2018

Senate Bill 329 (Act No. 47)

Geothermal Machinery and Equipment Credit – Temporarily Reinstated

Code Section 12-6-3587 provides an income tax credit for costs incurred by a taxpayer in the purchase and installation of a solar energy system or small hydropower system for heating water, space heating, air cooling, energy-efficient daylighting, heat reclamation, energy-efficient demand response, or the generation of electricity in or on a facility in South Carolina and owned by the taxpayer.

In 2016, Code Section 12-6-3587 was amended to provide a credit for costs incurred in the purchase and installation of “geothermal machinery and equipment” until January 1, 2019. Act No. 47 of 2019 has reinstated the credit for geothermal machinery and equipment until January 1, 2022. The provisions of Code Section 12-6-3587, as they existed on December 31, 2018, apply and the tax credits are earned and claimed under the same terms and conditions as existed on December 31, 2018.

Repeal Date: January 1, 2022

Effective Date: Tax years beginning after 2018

Senate Bill 439, Section 2 (Act No. 37)

Port Transportation Credit – New

Code Section 12-6-3375, providing a port cargo volume credit against income tax or withholding tax to eligible taxpayers that increase shipping through South Carolina ports, has been amended to add a new port transportation credit. Code Section 12-6-3375(I) has been added to provide a credit against income tax or withholding tax for eligible taxpayers engaged in manufacturing, warehousing, freight forwarding, freight handling, goods processing, cross docketing, transloading, wholesaling of goods, or distribution at a facility located in South Carolina based on the taxpayer’s transportation costs to and from a South Carolina port. “Transportation costs” means the costs of transporting freight, goods, and materials to and from port facilities in South Carolina. Any credit allocated to a taxpayer is at the discretion of the Coordinating Council for Economic Development (“Council”).

The port transportation credit requirements and limitations include:

1. A qualifying taxpayer must submit an application to the Council on a form prescribed by the Council. The form is submitted after the calendar year in which the taxpayer seeks to claim the credit.
2. The maximum amount of credit allowed to all qualifying taxpayers for a calendar year is limited to:
 - \$1 million for calendar year ending December 31, 2019
 - \$2 million for calendar year ending December 31, 2020
 - \$3 million for each calendar year after December 2020 until the credit expires.
3. A taxpayer may not claim the credit in any tax year after the tax year a port in Jasper County is opened and accepting shipments.
4. A taxpayer is eligible for the port transportation credit whether or not it qualifies for the port cargo volume credit under Code Section 12-6-3375(A).

5. A taxpayer cannot claim both a port transportation credit and a port cargo volume credit under Code Section 12-6-3375(A) in the same tax year.
6. If the income tax credit allocated to a taxpayer exceeds the taxpayer's income tax liability for a tax year, the excess credit can be carried forward and claimed in the next five succeeding tax years.
7. If the withholding tax credit allocated to a taxpayer exceeds the taxpayer's withholding tax liability for the tax quarter that is not otherwise refundable under Title 12, the excess credit can be carried forward and claimed against withholding tax liability that is not otherwise refundable under Title 12 in the next 20 succeeding tax quarters.
8. The credit is claimed on the income or withholding tax return in a manner prescribed by the Department. The Department may require a copy of the certification form issued by the Council be attached to the return or otherwise provided.

Effective Date: May 13, 2019

Senate Bill 439, Section 1 (Act No. 37)

Port Cargo Volume Credit and Port Transportation Credit – Maximum Credit Amount

Code Section 12-6-3375(A)(2) has been amended to provide that the total amount of credit available for the port cargo volume credit in Code Section 12-6-3375(A) and the new port transportation credit added in Code Section 12-6-3375(I) that may be allocated by the Coordinating Council for Economic Development (“Council”) to all eligible taxpayers is \$15 million for each calendar year. Previously, the Council could award up to \$8 million of port cargo volume credits for each calendar year.

Effective Date: May 13, 2019

House Bill 4243, Section 8 (Act No. 83)

Job Tax Credit – Credit Increase for Tier III and Tier IV Counties

South Carolina's 46 counties are ranked and designated annually for job tax credit purposes with equal weight given to unemployment rate and per capita income as provided in Code Section 12-6-3360 as Tier I, II, III, and IV counties. Code Section 12-6-3360(C)(1) has been amended to increase the credit amount for creating and maintaining new, full time jobs in Tier III and Tier IV counties. The Tier III credit amount has increased to \$20,250 from \$4,250. The Tier IV credit amount has increased to \$25,000 from \$8,000. The credit amount for Tier I and II counties remain at \$1,500 and \$2,750, respectively. Code Section 12-6-3360(C)(2) continues to provide that the credit amount is half the above listed credit amount for certain taxpayers with 99 or fewer employees increasing employment by two or more full time jobs.

The Department publishes an Information Letter annually of the county rankings. See SC Information Letter #19-2 for the final rankings of counties for new, full time jobs created in tax years that begin in 2019, where the job tax credit was first earned on or after January 1, 2019, and increases in such jobs.

Effective Date: May 22, 2019

House Bill 4243, Sections 1, 5 and 9.A (Act No. 83)

Job Tax Credit – Professional Sports Team

Code Section 12-6-3360, allowing a job tax credit to certain types of businesses, has been amended to add “professional sports team” to the list of qualifying businesses. Code Section 12-6-3360(M)(17) has been added and defines “professional sports team” as a professional sports team or club included in a professional league, such as the National Football League, National Association for Stock Car Racing, or the National Basketball Association, primarily engaged in participating in live sporting events before a paying audience with an annual payroll for federal tax purposes of at least \$190 million and at least 150 full time employees in South Carolina.

In order to claim the credit, a professional sports team must create the new full time jobs by July 1, 2022, and meet other applicable credit requirements. A team that has entered into a revitalization agreement with the South Carolina Coordinating Council for Economic Development before July 1, 2022 is not subject to this deadline.

If a professional sports team claims the credit, the Department must report the net number of new full time jobs created in South Carolina by the team, the average cash compensation of those jobs, and the aggregated residency status of the employees filling those jobs. The report must be provided to the Chairmen of the Senate Finance and House Ways and Means Committees and the Governor beginning on May 1st of the year immediately following the year in which the first new full time job is created, and every May 1st thereafter.

Effective Date: May 22, 2019

Senate Bill 440, Section 2.A. (Act No. 50)

Abandoned Building Credit – Carryforwards after Credit Repeal

The “South Carolina Abandoned Buildings Revitalization Act” (Title 12, Chapter 67), enacted in 2013, provides qualifying taxpayers a credit against either income taxes or property taxes for rehabilitating an abandoned building in South Carolina. Act No. 265 of 2018 postponed the repeal of the credit from December 31, 2019 to December 31, 2021.

Act No. 50 provides that upon the repeal of Chapter 67, Title 12, any carryforward credits shall continue to be allowed until the five year time period (for the income tax credit) or the eight year time period (for the property tax credit) in Code Section 12-67-140 is completed.

Effective Date: Tax years beginning after 2017

Senate Bill 440, Section 2.B. (Act No. 50)

Abandoned Building Credit – Extension of Placed in Service Date

The “South Carolina Abandoned Buildings Revitalization Act” (Title 12, Chapter 67) provides qualifying taxpayers a credit against either income taxes or property taxes for rehabilitating an abandoned building in South Carolina. The entire credit is earned in the tax year the applicable phase or portion of the building site is placed in service. The income tax credit must be taken in equal installments over a three-year period beginning with the tax year the applicable phase or portion of the building site is placed in service.

Code Section 12-67-170 has been added to provide that if a taxpayer files a notice of intent to rehabilitate and has been rehabilitating an abandoned building continuously for the preceding year and the building is more than 60% complete, the taxpayer must be allowed to extend the placed in service date until 90 days after the construction is completed, provided the construction continues diligently until the end of the 90 days. Code Section 12-67-170 is not to be construed to allow a taxpayer to earn a credit before the applicable phase or portion of the building site is placed in service.

Effective Date: Tax years beginning after 2017

Senate Bill 440, Section 1 (Act No. 50)

Textile Credit – Amended

The South Carolina Textiles Communities Revitalization Act (Chapter 65, Title 12) provides qualifying taxpayers a credit against either income taxes or real property taxes for the rehabilitation of an abandoned textile mill site in South Carolina. Code Section 12-65-20, containing definitions of terms used in the Act, has been amended to revise the definitions of “textile mill site” and “rehabilitation expenses.”

1. Textile Mill Site. Code Section 12-65-20(4) defines “textile mill site” and has been reorganized from a single paragraph into two subitems as summarized below.
 - a. General Textile Mill Sites. Under new subitem (a) a “textile mill site” means the textile mill together with the land and other improvements on it which were used directly for textile manufacturing operations or ancillary uses. However, the area of the site is limited to the land located within the boundaries where the textile manufacturing, dying, or finishing facility structure is located and does not include land located outside the boundaries of the structure or devoted to ancillary uses.

- b. Special Textile Mill Sites. New subitem (b) only applies to a site acquired before January 1, 2008; a site located on the Catawba River near Interstate 77; or a site which on the date the notice of intent to rehabilitate is filed, is located in an area of the county designated as distressed by the applicable council of government. For these sites, “textile mill site” means the textile mill structure, together with all land and improvements which were used directly for textile manufacturing operations or ancillary uses, or were located on the same parcel or a contiguous parcel within one thousand feet of any textile mill structure or ancillary uses. For purposes of subitem (b), “contiguous parcel” means any separate tax parcel sharing a common boundary with an adjacent parcel or separated only by a private or public road.
2. Rehabilitation Expenses. Code Section 12-65-20(8) defines “rehabilitation expenses” and has also been reorganized from a single paragraph into two subitems.
- a. Expenses Generally. New subitem (a) lists the expenses generally included and excluded from the definition, as well as the requirement that the textile mill and buildings on the textile mill site be either renovated or demolished.
 - b. 200% Exclusion. New subitem (b) provides that for buildings on contiguous parcels (as defined in Code Section 12-65-20(4)(b)), “rehabilitation expenses” do not include expenses that increase by more than 200% the square footage of the buildings that existed on that contiguous parcel immediately preceding the time at which the textile mill became abandoned.

Prior to this amendment, the definition of “rehabilitation expenses” provided that rehabilitation expenses associated with buildings on a textile mill site that increase the square footage of the buildings that existed on the site by more than 200% would not be considered eligible expenses.

Effective Date: Tax years beginning after 2017

House Bill 3595 (Act No. 15)

Industry Partnership Fund Credit – Credit Amounts Amended

Code Section 12-6-3585 allows a taxpayer to claim a credit against income taxes, bank taxes, license fees, insurance premium taxes, or any combination, for contributions made to the Industry Partnership Fund (“Fund”) at the South Carolina Research Authority (“SCRA”) or an SCRA-designated affiliate, or both, pursuant to Code Section 13-17-88(E).

Code Section 12-6-3585(A) has been amended to change the credit amounts for contributions to the Fund, or an SCRA-designated affiliate, or both, to \$250,000 for a single taxpayer, not to exceed an aggregate credit of \$9 million for all taxpayers. Prior to this amendment, the limit for a single taxpayer was \$2 million, and the aggregate limit for all taxpayers was \$6 million.

The \$9 million annual aggregate credit amount is phased in over three years beginning with tax year 2019 as follows.

Tax Year Beginning In	Annual Credit Allowed for a Single Taxpayer	Annual Total Credit Allowed for All Taxpayers
2019	\$250,000	\$7 million
2020	\$250,000	\$8 million
2021	\$250,000	\$9 million

Code Section 12-6-3585(E), which defines “taxpayer,” was amended to provide that any member of the SCRA board of trustees or the SC Launch!, Inc. board of directors may not claim the credit.

Code Section 12-6-3585(F) has been amended to provide that a taxpayer who is certified by the SCRA as having priority entitlement to the credit for an applicable year must make a commitment satisfactory to SCRA, at such time as SCRA may deem appropriate, but not later than April 1 of such year, to make the contribution during such year.

Effective Date: Applies to tax years beginning after 2018, except that the amendment to Code Section 12-6-3585(F) takes effect January 1, 2020.

House Bill 4133, Sections 1 through 3 (Act No. 77)

Community Development Tax Credit – Amended and Extended

The South Carolina Community Economic Development Act (Act No. 314 of 2000) authorizes grants to community development corporations and community development financial institutions as provided in Title 34, Chapter 43. It also provides tax credits under Code Section 12-6-3530 to investors who invest in community development corporations and community development financial institutions as defined under Code Section 34-43-20(2) and (3).

Code Section 12-6-3530 has been amended as follows:

1. Code Section 12-6-3530(A) has been amended to allow a taxpayer to claim a tax credit equal to 33% percent of all equity investments in a certified community development corporation or in a community development financial institution and a tax credit equal to 50% of cash donations to a certified community development corporation or a community development financial institution. Previously, the taxpayer claimed a credit equal to 33% of “all amounts invested” in a community development corporation or a community development financial institution.
2. Code Section 12-6-3530(B) has been amended to increase the total amount of credit that may be claimed by all taxpayers for all years by \$1 million. This \$1 million may only be used for credits earned and certificates issued in tax years beginning after 2018.

3. Code Section 12-6-3530(C) has been amended to provide that the Department of Commerce shall authorize tax credits on a first-come, first-served basis. Subsection (C) also now provides that 25% of annual tax credits must be held in a reserve account during the first three quarters of each tax year and made available exclusively to small, rural-based community development corporations. During the first three quarters of any tax year, an individual community development corporation or a community development financial institution must not be authorized to receive more than 15% of the statewide total annual credits. During the fourth quarter of each tax year, all remaining tax credits are available to all certified community development corporations or community development financial institutions.
4. Code Section 12-6-3530(E) has been amended to provide that a credit carryforward may not be used for a tax year that begins on or after three years from the date of the acquisition of an equity interest that is the basis for the credit. The statute previously provided a 10 year carryforward period.
5. Code Section 12-6-3530(F) has been amended to prohibit the authorization of any tax credits after the annual aggregate credit limit has been reached. Previous language in Subsection (F) providing for pro-rata distribution of the tax credits has been deleted.
6. Code Section 12-6-3530(L) allows a bank or financial institution to invest up to 10% of its total capital and surplus in a community development corporation or community development financial institution and receive the credit. Subsection (L) has been amended to remove the requirement that the bank or financial institution making the investment be chartered by the State of South Carolina and to allow banks and financial institutions with tax liabilities in South Carolina to make such investments and receive the credit.
7. Code Section 12-6-3530(M) has been added to provide that returns on investments in certified community development corporations and certified community development financial institutions, including the value of any tax credits authorized pursuant to Code Section 12-6-3530, may not exceed the total amount of initial investment in certified community development corporations and community development financial institutions.

Repeal Date: June 30, 2023 (The Act was to be repealed on June 30, 2020.)

Effective Date: Applies to credits earned and certificates issued, and the administration thereof, after 2018. Any credits earned and certificates issued, and the administration thereof, before 2019 must be claimed in accordance with the provisions of Code Section 12-6-3530 as it existed on December 31, 2018. However, any credits earned and certificates issued before 2019 must count toward the aggregate credit limit for all taxpayers in all calendar years set forth in Code Section 12-6-3530(B).

House Bill 4243, Section 10 (Act No. 83)

Job Development Credit – Professional Sports Team

Code Section 12-10-80 provides credits against employee withholding taxes to new or expanding businesses making qualifying investments, creating a minimum number of new jobs in South Carolina, and entering into a revitalization agreement with the South Carolina Coordinating Council for Economic Development. These credits are referred to as “job development credits.” In order to qualify for job development credits, a business must be engaged primarily in a business of a type identified in Code Section 12-6-3360 (the job tax credit.) Code Section 12-10-120 has been added to provide that a job development credit may not be awarded to a professional sports team until the minimum job requirement in Code Section 12-6-3360(M)(17) has been fully met.

Effective Date: May 22, 2019

REENACTED TEMPORARY PROVISOS

The following temporary provisos were enacted in a prior legislative session and were reenacted by the General Assembly in 2019. Temporary provisos are effective for the State fiscal year July 1, 2019 through June 30, 2020, and will expire June 30, 2020, unless reenacted by the General Assembly in the next legislative session.

House Bill 4000, Part IB, Section 118, Proviso 118.10 (Act No. 91)

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 and 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 an individual who deducted the same actual cost as a business expense.

House Bill 4000, Part IB, Section 1A, Proviso 1A.9 (Act No. 91)

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

This temporary proviso allows public school teachers identified in the *Professional Certified Staff*, certified special school classroom teachers, certified media specialists, certified guidance counselors, and career specialists who are employed by a school district, charter school, or lead teachers employed in a publically funded full day 4K classroom approved by South Carolina First Steps to School Readiness, a \$275 reimbursement designed to offset expenses incurred for teaching supplies and materials. 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 2019 tax return. The credit is the lesser of \$275 or the amount spent on teacher supplies and materials. The return or amended return claiming the credit must be filed on or before June 30, 2020, and may include expenses incurred after December 31, 2019. Note: Any person who receives the reimbursement provided by this proviso is not eligible for the income tax credit allowed by this proviso.

House Bill 4000, Part IB, Section 1A, Proviso 1A.10 (Act No. 91)

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 4000, Part IB, Section 117, Proviso 117.121 (Act No. 91)

Retail Facilities Revitalization Act – Repeal of Act Suspended

The South Carolina Retail Facilities Revitalization Act (Title 6, Chapter 34) was enacted in 2006 (Act No. 285) to create an incentive for the renovation, improvement, and redevelopment of abandoned retail facility sites in South Carolina. A taxpayer who renovates, improves, or redevelops an abandoned retail facility at an eligible site may elect to take either an income tax credit or a property tax credit. Act No. 285 of 2006 contained a repeal provision stating that the Act is repealed on July 1, 2016.

Under this temporary proviso, the repeal of the South Carolina Retail Facilities Revitalization Act as to sites for which written notification of election of mode of credit has been provided to the Department prior to July 1, 2016, and for which a building permit has been issued prior to July 1, 2016, is suspended for fiscal year 2019 - 2020.

REMINDERS

The following provisions were enacted prior to 2019 but are being phased in in 2019 and thereafter. The provisions are summarized below for informational purposes.

House Bill 3147, Section 1 (Act No. 272)

Military Individual - Earned Income and Retirement Income – New Deduction - General Retirement and Age 65 and Older Deduction – Amended

Code Section 12-6-1170 provides an income tax deduction for an individual with retirement income and an income tax deduction for persons 65 and older. Code Section 12-6-1171 has been added to provide an income tax deduction for (a) an individual under age 65 with South Carolina earned income and military retirement income or (b) an individual age 65 and older with military retirement income. With the addition of Code Section 12-6-1171, Code Section 12-6-1170 has been amended to provide for a reduction in the deduction allowed by an amount claimed under Code Section 12-6-1171. A summary of new Code Section 12-6-1171 and the related amendment to Code Section 12-6-1170 is provided below.

I. Summary of New Code Section 12-6-1171.

- A. Individual Under Age 65 with South Carolina Earned Income and Military Retirement Income. Code Section 12-6-1171(A)(1) provides that an individual who has military retirement income may deduct an amount of his “South Carolina earned income” from South Carolina taxable income equal to the amount of military retirement income that is included in South Carolina taxable income. For purposes of this item, South Carolina earned income has the same meaning as provided in Code Section 12-6-3330. The deduction amount is phased in as follows:

Tax Year Beginning In	Deduction Amount Not to Exceed
2016	\$ 5,900
2017	\$ 8,800
2018	\$11,700
2019	\$14,600
2020 and thereafter	\$17,500

In the case of married taxpayers who file a joint federal income tax return, the deduction is calculated separately as though they had not filed a joint return, so that each individual’s deduction is based on the same individual’s retirement income and earned income.

- B. Individual Age 65 and Older with Military Retirement Income. Code Section 12-6-1171(A)(2) provides that beginning in the year in which an individual reaches age 65, an individual who has military retirement income may deduct his military retirement income that is included in South Carolina taxable income. The deduction amount is phased in as follows:

Tax Year Beginning In	Deduction Amount Not to Exceed
2016	\$18,000
2017	\$21,000
2018	\$24,000
2019	\$27,000
2020 and thereafter	\$30,000

A surviving spouse receiving military retirement income that is attributable to the deceased spouse shall apply this deduction in the same manner that the deduction applied to the deceased spouse. If the surviving spouse also has other retirement income, an additional retirement deduction is allowed.

- C. Definitions of Retirement Income. For purposes of Code Section 12-6-1171, the term “retirement income” means the total of all otherwise taxable income not subject to a penalty for premature distribution received by the taxpayer or the taxpayer’s surviving spouse in a taxable year from a qualified military retirement plan. For purposes of a surviving spouse, “retirement income” also includes a retirement benefit plan and dependent indemnity compensation related to the deceased spouse’s military service.

II. Summary of Code Section 12-6-1170 and New Code Section 12-6-1170(C) for Military Individuals.

- A. Code Section 12-6-1170(A) – General Retirement Income Deduction. Code Section 12-6-1170(A) continues to provide an annual income tax deduction from South Carolina taxable income for retirement income to the owner of a qualified retirement account. The qualifying taxpayer receiving retirement income may deduct up to \$3,000 of such retirement income annually until reaching age 65, and deduct up to \$10,000 of such retirement income annually at age 65 and thereafter. In addition, a surviving spouse is allowed a deduction for income received from his or her retirement plan, if any, and a separate deduction for retirement income that is attributable to the deceased spouse, if any.
- B. Code Section 12-6-1170(B) – Deduction for Age 65 and Older. Code Section 12-6-1170(B) continues to provide an income tax deduction of up to \$15,000 against any South Carolina taxable income of a resident individual who is 65 or older by the end of the tax year. Taxpayers filing a joint return are allowed a deduction of up to \$15,000 when only one spouse is 65 or older, and up to \$30,000 when both spouses are 65 or older, by the end of the tax year. Amounts deducted as retirement income under Code Section 12-6-1170(A) reduce the \$15,000 deduction. Amounts deducted as a surviving spouse under Code Section 12-6-1170(A) do not reduce this \$15,000 deduction.

C. New Code Section 12-6-1170(C) – Military Individuals Claiming a Deduction Under Code Section 12-6-1171. Code Section 12-6-1170(C) has been added to provide modifications to the amounts allowed under the general provisions of Code Section 12-6-1170(A) and (B). It provides:

1. If a taxpayer claims a deduction under Code Section 12-6-1171, then the deduction allowed under Code Section 12-6-1170 must be reduced by the amount the taxpayer deducts under Code Section 12-6-1171. This reduction does not apply if the deduction claimed under Code Section 12-6-1171 is claimed by a surviving spouse.
2. In the case of married taxpayers who file a joint federal income tax return, this reduction applies to each individual separately, so that the reduction only applies to the amount the individual claiming the deduction pursuant to Code Section 12-6-1171 otherwise could have claimed under Code Section 12-6-1170 if the individual had not filed a joint return.

Effective Date: Tax years beginning after 2015

House Bill 3516, Section 15 (Act No. 40)

Motor Fuel User Fee Credit – New Refundable Credit

Code Section 12-6-3780 has been added to allow a resident taxpayer a refundable income tax credit for preventative maintenance costs associated with a private passenger motor vehicle or motorcycle registered in South Carolina during the year, subject to certain limitations.

The credit is the lesser of: (1) the resident taxpayer's preventative maintenance expenses; or (2) the resident taxpayer's actual motor fuel user fee increase incurred for that motor vehicle as a result of increases in the motor fuel user fee pursuant to Code Section 12-28-310(D).

Other credit requirements and provisions include:

1. A resident taxpayer may claim the credit for up to two private passenger motor vehicles. The credit is calculated separately for each vehicle.
2. The credit must be claimed on the resident taxpayer's income tax return.
3. The Department may require any documentation it deems necessary to implement the provisions of this section.

4. A maximum aggregate amount of credit is available per tax year as follows:

Tax Year	Total Credit Allowed for All Taxpayers
2018	\$40 million
2019	\$65 million
2020	\$85 million
2021	\$110 million
2022 and thereafter, if reauthorized	\$114 million

If the Revenue and Fiscal Affairs Office estimates that the total amount of credits claimed will exceed the maximum amount of aggregate credit allowed, it shall certify to the Department a pro rata adjustment to the credit otherwise provided.

For purposes of this credit, “private passenger motor vehicle,” “motor fuel expenditures,” and “preventative maintenance” are defined as follows:

1. “Private passenger motor vehicle” is defined in Code Section 56-3-630. Code Section 56-3-630 provides, in part, that a private passenger motor vehicle is a motor vehicle designed, used, and maintained for the transportation of ten or fewer persons and trucks having an empty weight of 9,000 pounds or less and a gross weight of 11,000 pounds or less.
2. “Motor fuel expenditures” are purchases of motor fuel within South Carolina to which the motor fuel user fee imposed pursuant to Code Section 12-28-310(D) applies.
3. “Preventative maintenance” includes costs incurred within South Carolina for new tires, oil changes, regular vehicle maintenance, and the like.

Expiration of Credit: Unless reauthorized by the General Assembly, the credit may not be claimed for any tax year beginning after 2022.

Additional Information: See SC Revenue Ruling #17-6 for more information regarding the credit.

Effective Date: Tax years beginning after 2017

House Bill 3516, Section 16 (Act No. 40)

South Carolina Earned Income Credit – New Credit

Code Section 12-6-3632 has been added to provide a full-year resident individual a nonrefundable South Carolina earned income tax credit. The credit is equal to 125% of the federal earned income tax credit allowed the taxpayer under Internal Revenue Code Section 32.

The credit will be phased in over six years in equal installments of 20.83% beginning in 2018 as follows:

Tax Year	Credit Amount
2018	20.83% of federal earned income credit
2019	41.67% of federal earned income credit
2020	62.5% of federal earned income credit
2021	83.33% of federal earned income credit
2022	104.17% of federal earned income credit
2023 and thereafter	125% of federal earned income credit

Effective Date: Tax years beginning after 2017

House Bill 3516, Section 17 (Act No. 40)

Two-Wage Earner Credit – Credit Increased

Code Section 12-6-3330, providing a two-wage earner income tax credit for married individuals filing a joint return when both spouses have South Carolina earned income, has been amended to increase the maximum credit available from \$210 to \$350. Prior to this amendment, the credit was limited to 0.7% of the lesser of \$30,000 or the South Carolina qualified earned income of the spouse with the lower South Carolina qualified earned income for the tax year.

The amendment increases the \$30,000 threshold to \$50,000. It is phased in over six years in equal installments of \$3,333 each tax year as follows:

Tax Year	A	B	Maximum Credit (Columns A x B)
	Earned Income Maximum Threshold	Factor	
2018	\$33,333	0.7%	\$233
2019	\$36,667	0.7%	\$257
2020	\$40,000	0.7%	\$280
2021	\$43,333	0.7%	\$303
2022	\$46,667	0.7%	\$327
2023 and thereafter	\$50,000	0.7%	\$350

Effective Date: Tax years beginning after 2017

Senate Bill 1043, Section 6.A (Act No. 265)

Increase in Purchases of South Carolina Agricultural Products – New Credit

Code Section 12-6-3378 has been added to provide a credit against income tax or withholding tax for eligible taxpayers who increase their purchases of agricultural products certified by the South Carolina Department of Agriculture as South Carolina grown.

Credit Amount. The amount of credit for each taxpayer is determined by the Coordinating Council for Economic Development (“Council”) at the Department of Commerce, but cannot exceed \$100,000 per taxpayer in any tax year. The Council has sole discretion in allocating the credits and must consider certain criteria provided in the statute in awarding credits. The credit may be allocated on a monthly, quarterly, or annual basis. The maximum amount of tax credits allowed to all qualifying taxpayers for each calendar year from 2018 to 2027 is listed below:

Calendar Year	Total Credit Allowed for All Taxpayers
2018	\$500,000
2019	\$1,000,000
2020	\$1,500,000
2021 through 2027	\$2,000,000

Credit Duration. The tax credit is available for tax years 2018 through 2027.

Effective Date: Tax years beginning after 2017

PROPERTY TAXES and FEES IN LIEU OF PROPERTY TAXES

House Bill 3630 (Act No. 96)

Federal Government Shutdown Assistance – Statutory Penalty Schedule Extended

The federal government was partially shutdown from December 22, 2018 to January 25, 2019. During this time period, certain government employees were working without pay or furloughed and certain persons with federal government contracts were not paid. To assist workers financially affected by the shutdown, Act No. 96, an uncodified joint resolution, was passed by the General Assembly.

For property tax year 2018, for which property taxes were due on January 15, 2019, the penalty schedule for unpaid property taxes and assessments set forth in Code Section 12-45-180, including the commencement of a tax execution, are delayed by three months for each portion of the schedule. However, real property taxes and assessments remain due on or before January 15, 2019, or 30 days after the mailing of tax notices, whichever occurs later. In addition, the procedure for appealing real property taxes and assessments is not affected by the delay.

The delay applies if the owner of the real property was employed by the federal government and did not receive his federal salary on the normal schedule during the shutdown. The delay also applies if the owner of the real property contracted with the federal government and the federal shutdown has caused him to lose at least 50% of his income during the shutdown, as determined by the county treasurer. The burden of proof of eligibility for the delay is on the taxpayer.

Effective Date: February 21, 2019. However, if penalties have been added before February 21, 2019, the auditor shall adjust the penalties in conformity with the provisions of Act No. 96. If penalties have been paid before February 21, 2019, the taxpayer is entitled to a refund of penalties paid.

House Bill 4000, Part IB, Section 117, Proviso 117.128 (Act No. 91)

Improvements to Property Damaged by Catastrophic Weather Event – Revised to Include Hurricane Florence and Extend Time for Improvements for Eligible Events

This temporary proviso provides that any improvements made to real property or personal property used as a residence, such as a mobile home or manufactured housing unit, damaged during the catastrophic weather event in October 2015, Hurricane Matthew of 2016, or Hurricane Florence of 2018, after the event and before June 30, 2020, is not considered an improvement and does not require a re-appraisal.

The temporary proviso was enacted in a prior legislative session, but was revised this legislative session to include Hurricane Florence of 2018, and to allow eligible improvements to be made until June 30, 2020 to property impacted by the above three listed events. This provision only applies if as a result of the catastrophic weather event, the improvements made to the property were funded by the United States Department of Housing and Urban Development Block Grant - Disaster Recovery program. This provision also applies if, at the discretion of the county, and using qualifications determined by the county, the improvements were made with the assistance of a volunteer organization active in disaster, or in a similar volunteer organization.

During the current fiscal year, the property tax value of an eligible property shall remain the same unless an assessable transfer of interest occurs. No refund is allowed on account of values adjusted as provided in this provision.

Effective Date: This temporary proviso is effective for State fiscal year July 1, 2019 through June 30, 2020. It will expire June 30, 2020, unless reenacted by the General Assembly in the next legislative session.

House Bill 3916 (Act No. 69)

Motor Vehicle Taxation and Registration – Penalty Increased

Code Section 12-37-2615, concerning the penalties imposed for failure to comply with the motor vehicle taxation and registration requirements of Code Section 12-37-2610, has been amended to increase the amount of the fine. Code Section 12-37-2615 now provides that any person who violates the provisions of Code Section 12-37-2610 is guilty of a misdemeanor and upon conviction will be fined not more than \$500 or imprisoned for a period not to exceed 30 days, or both. Previously, the fine was \$100.

Effective Date: May 16, 2019

Senate Bill 440, Section 2.A. (Act No. 50)

Abandoned Building Credit – Carryforwards after Credit Repeal

The “South Carolina Abandoned Buildings Revitalization Act” (Title 12, Chapter 67), enacted in 2013, provides qualifying taxpayers a credit against either property taxes or income taxes for rehabilitating an abandoned building in South Carolina. Act No. 265 of 2018 postponed the repeal of the credit from December 31, 2019 to December 31, 2021.

Act No. 50 provides that upon the repeal of Chapter 67, Title 12, any carryforward credits shall continue to be allowed until the eight year time period (for the property tax credit) or the five year time period (for the income tax credit) in Code Section 12-67-140 is completed.

Effective Date: Tax years beginning after 2017

Senate Bill 440, Section 2.B. (Act No. 50)

Abandoned Building Credit – Extension of Placed in Service Date

The “South Carolina Abandoned Buildings Revitalization Act” (Title 12, Chapter 67) provides qualifying taxpayers a credit against either property taxes or income taxes for rehabilitating an abandoned building in South Carolina. The entire credit is earned in the tax year the applicable phase or portion of the building site is placed in service. The property tax credit may be taken for up to eight years beginning with the tax year the applicable phase or portion of the building site is placed in service.

Code Section 12-67-170 has been added and provides that if a taxpayer files a notice of intent to rehabilitate and has been rehabilitating an abandoned building continuously for the preceding year and the building is more than 60% complete, the taxpayer must be allowed to extend the placed in service date until 90 days after the construction is completed, provided the construction continues diligently until the end of the 90 days. Code Section 12-67-170 is not to be construed to allow a taxpayer to earn a credit before the applicable phase or portion of the building site is placed in service.

Effective Date: Tax years beginning after 2017

Senate Bill 440, Section 1 (Act No. 50)

Textile Credit – Amended

The South Carolina Textiles Communities Revitalization Act (Chapter 65, Title 12) provides qualifying taxpayers a credit against either real property taxes or income taxes for the rehabilitation of an abandoned textile mill site in South Carolina. Code Section 12-65-20, containing definitions of terms used in the Act, has been amended to revise the definitions of “textile mill site” and “rehabilitation expenses.”

1. Textile Mill Site. Code Section 12-65-20(4) defines “textile mill site” and has been reorganized from a single paragraph into two subitems as summarized below.
 - a. General Textile Mill Sites. Under new subitem (a) a “textile mill site” means the textile mill together with the land and other improvements on it which were used directly for textile manufacturing operations or ancillary uses. However, the area of the site is limited to the land located within the boundaries where the textile manufacturing, dyeing, or finishing facility structure is located and does not include land located outside the boundaries of the structure or devoted to ancillary uses.
 - b. Special Textile Mill Sites. New subitem (b) only applies to a site acquired before January 1, 2008; a site located on the Catawba River near Interstate 77; or a site which on the date the notice of intent to rehabilitate is filed, is located in an area of the county designated as distressed by the applicable council of government. For these sites, “textile mill site” means the textile mill structure, together with all land

and improvements which were used directly for textile manufacturing operations or ancillary uses, or were located on the same parcel or a contiguous parcel within one thousand feet of any textile mill structure or ancillary uses. For purposes of subitem (b), “contiguous parcel” means any separate tax parcel sharing a common boundary with an adjacent parcel or separated only by a private or public road.

2. Rehabilitation Expenses. Code Section 12-65-20(8) defines “rehabilitation expenses” and has been reorganized from a single paragraph into two subitems.
 - a. Expenses Generally. New subitem (a) lists the expenses generally included and excluded from the definition, as well as the requirement that the textile mill and buildings on the textile mill site be either renovated or demolished.
 - b. 200% Exclusion. New subitem (b) provides that for buildings on contiguous parcels (as defined in Code Section 12-65-20(4)(b)), “rehabilitation expenses” do not include expenses that increase by more than 200% the square footage of the buildings that existed on that contiguous parcel immediately preceding the time at which the textile mill became abandoned.

Prior to this amendment, the definition of “rehabilitation expenses” provided that rehabilitation expenses associated with buildings on a textile mill site that increase the square footage of the buildings that existed on the site by more than 200% would not be considered eligible expenses.

Effective Date: Tax years beginning after 2017

REENACTED TEMPORARY PROVISOS

The following temporary provisos were enacted in prior legislative sessions and were reenacted by the General Assembly in 2019. Temporary provisos are effective for the State fiscal year July 1, 2019 through June 30, 2020, and will expire June 30, 2020, unless reenacted by the General Assembly in the next legislative session.

House Bill 4000, Part IB, Section 109, Proviso 109.12 (Act No. 91)

Notification of Protest to Affected County and School District

This temporary proviso requires the Department to notify any affected county and school district when a taxpayer, other than an individual, files a written protest pursuant to Code Section 12-60-2120. Code Section 12-60-2120 allows a property taxpayer to protest a property tax assessment or the denial of a property tax exemption.

House Bill 4000, Part IB, Section 1, Proviso 1.47 (Act No. 91)

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 pursuant to Code Section 12-43-220(c) from all property taxes imposed for school operating purposes. School districts are reimbursed for lost revenue based on a three-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 three-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 4000, Part IB, Section 113, Proviso 113.8 (Act No. 91)

Agricultural Use Exemption for Timberland – Impact of Additional County Requirements

Chapter 27 of Title 6 establishes the Local Government Fund (“Fund”) and requires that South Carolina’s annual general appropriations act allocate a specified amount of general fund revenues from the latest completed fiscal year to the Fund. No later than 30 days after the end of each calendar quarter, the State Treasurer must distribute Fund revenues to counties and municipalities in accordance with Code Section 6-27-40.

Code Section 12-43-230(a) and Code Section 12-43-232 provide certain requirements for a landowner to receive an agricultural use exemption. Under this temporary proviso, if a county imposes any additional requirements for an agricultural use exemption with respect to timberland, the county’s Fund distributions will be withheld.

House Bill 4000, Part IB, Section 117, Proviso 117.37 (Act No. 91)

Personal Property Tax Relief Fund

This temporary proviso provides 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 a 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.

House Bill 4000, Part IB, Section 117, Proviso 117.121 (Act No. 91)

Retail Facilities Revitalization Act – Repeal of Act Suspended

The South Carolina Retail Facilities Revitalization Act (Title 6, Chapter 34) was enacted in 2006 (Act No. 285) to create an incentive for the renovation, improvement, and redevelopment of abandoned retail facility sites in South Carolina. A taxpayer who renovates, improves, or redevelops an abandoned retail facility at an eligible site may elect to take either an income tax credit or a property tax credit. Act No. 285 of 2006 contained a repeal provision stating that the Act is repealed on July 1, 2016.

Under this temporary proviso, the repeal of the South Carolina Retail Facilities Revitalization Act as to sites for which written notification of election of mode of credit has been provided to the Department prior to July 1, 2016, and for which a building permit has been issued prior to July 1, 2016, is suspended for fiscal year 2019 - 2020.

REMINDERS

The following provisions were enacted prior to 2019 but are being phased in or are effective in 2019 and thereafter. The provisions are summarized below for informational purposes.

House Bill 4715, Section 8 (Act No. 223)

Boats and Watercraft – Property Taxes and New Registration and Titling Procedures

Act No. 223 (“the Act”) establishes new procedures for the issuance of certificates of number (i.e., registrations) and titles for boats, boat motors, and watercraft. The Act amends Title 50, Chapter 23 (See Code Sections 50-23-11, 50-23-70, 50-23-340, 50-23-345, 50-23-370, and new Code Sections 50-23-12 and 50-23-35) and adds new Article 26 to Chapter 37 of Title 12. These new procedures will affect the Department of Natural Resources (“DNR”), county auditors, county treasurers, and taxpayers.

Certificates of number and titles for boats, boat motors, and watercraft are administered by DNR. Since the filing and payment of property taxes is intertwined with these new registration and titling procedures, a brief summary of the procedures is provided below. Questions concerning these registration and titling procedures should be directed to DNR.

Under the Act, the registration period for boats, boat motors, and watercraft will be changed from a three-year period to an annual period for all certificates of number issued or renewed after January 1, 2020. Any certificate of number awarded prior to January 1, 2020 will remain in effect for the full three-year term unless terminated or discontinued by DNR.

Beginning January 1, 2020, each county auditor annually must mail watercraft certificate of number renewal notices to owners of watercraft in the county as determined by DNR at least 45 days prior to expiration of the certificate. Code Section 50-23-370.

Under new Code Section 12-37-3200, which is effective January 1, 2020, the tax year for a boat, boat motor, or watercraft begins with the last day of the month in which DNR issues a certificate of number, and ends on the last day of the month in which the certificate of number expires or is due to expire. DNR must not issue a certificate of number until the property taxes have been paid on the boat, boat motor, or watercraft for the year for which the registration is to be issued.

All property taxes are due and payable 120 days from the date of purchase. Code Section 12-37-3200. When a boat, boat motor, or watercraft is first taxable in a county, the owner must file with the auditor of the county in which the taxpayer resides, a property tax return setting forth the county, school district, special or tax district, and municipality in which the boat, boat motor, or watercraft is principally located prior to filing an application for a certificate of number. Code Section 12-37-3220.

The county auditor must prepare a tax notice for all boats, boat motors, and watercraft owned by the same person and titled at the same time for each tax year. Code Section 12-37-3210. The notice must:

1. Describe the boat, boat motor, or watercraft by name, model, and identification number;
2. Set forth the assessed value of the boat, the millage, the taxes due on each boat, and the tax year; and
3. Contain information concerning a taxpayer's appeal rights.

The county auditor shall determine the assessed value of boats, boat motors, and watercraft and shall calculate the amount of taxes due on the property. Code Section 12-37-3230. The county treasurer or other official shall issue the taxpayer a paid receipt once all charges on the tax bill, including the taxes, have been paid. Code Section 12-37-3210. No certificate of number may be issued by DNR unless the application is accompanied by the receipt, or notice from the county treasurer, by other means satisfactory to DNR, of payment of the tax. Code Section 12-37-3210.

Note: The provisions of Article 26 do not apply to a boat, boat motor, or watercraft exempt from ad valorem taxation pursuant to Code Section 12-37-220(B)(38)(a) (watercraft and motors which have an assessment of not more than \$50), or classified as a primary or secondary residence under Code Section 12-37-224(B).

Effective Date: January 1, 2020

House Bill 3516, Section 19 (Act No. 40)

Manufacturing Property – New Partial Exemption

Code Section 12-37-220(B)(52) has been added to exempt from ad valorem property taxes 14.2857% of the property tax value of manufacturing property assessed for property tax purposes pursuant to Code Section 12-43-220(a)(1), both real and personal. If the exemption is applied to real property, then it must be applied to the property tax value as it may be adjusted downward to reflect the 15% cap on value provided in Section 6, Article X of the South Carolina Constitution.

The exemption amount is phased in over six equal and cumulative percentage installments, as follows:

Property Tax Year Beginning In	Exemption Amount
2018	2.38095%
2019	4.7619%
2020	7.14285%
2021	9.5238%
2022	11.90475%
2023 and thereafter	14.2857%

The revenue loss resulting from the exemption must be reimbursed and allocated to the political subdivisions of South Carolina, including school districts, in the same manner as the Trust Fund for Tax Relief, not to exceed \$85 million per year. For any year in which the reimbursements are projected by the Revenue and Fiscal Affairs Office to exceed the reimbursement cap, the exemption amount shall be proportionately reduced so as not to exceed the reimbursement cap. Property exempted from property taxes in the manner provided in Code Section 12-37-220(B)(52), as discussed above, is considered taxable property for purposes of bonded indebtedness pursuant to Section 15, Article X of the South Carolina Constitution.

Effective Date: Property tax years beginning after 2017

SALES AND USE TAXES

Senate Bill 214 (Act No. 21)

Marketplace Facilitator

Chapter 36 of Title 12, the sales and use tax law, has been amended to clarify South Carolina's longstanding requirement that any person engaged in business as a retailer must remit sales and use tax on every taxable retail sale of tangible personal property by the retailer, whether the tangible personal property is owned by the retailer or another person (e.g., on consignment, by auction, or in any other manner). The various amendments under the Act clarify that a "marketplace facilitator" is a retailer or seller for purposes of the sales and use tax. A summary of the Act is provided below.

Definition of Marketplace Facilitator. Code Section 12-36-71 has been added to define a "marketplace facilitator" as any person engaged in the business of facilitating a retail sale of tangible personal property by:

- a. listing or advertising, or allowing the listing or advertising of, the products of another person in any marketplace where sales at retail occur, and
- b. collecting or processing payments from the purchaser, either directly or indirectly through an agreement or arrangement with a third party.

A marketplace facilitator also includes any related entities assisting the marketplace facilitator in sales, storage, distribution, payment collection, or in any other manner, with respect to the marketplace.

When a marketplace facilitator is comprised of multiple entities, the entity that lists or advertises, or allows the listing or advertising of, the products sold at retail in the marketplace is the entity responsible for remitting the sales and use tax to South Carolina.

Definition of a Marketplace. Code Section 12-36-71 states that a "marketplace" may be physical or electronic and includes, but is not limited to, any space, store, booth, catalog, website, television or radio broadcast, or similar place, medium, or forum.

Retailer or Seller Defined to Include Marketplace Facilitator. Code Section 12-36-70, which defines "retailer" and "seller," has been amended to clarify that every person "operating as a marketplace facilitator" is a retailer or seller for purposes of the sales and use tax.

Gross Proceeds or Sales Price. Code Sections 12-36-90 and 12-36-130 define the terms "gross proceeds of sales" (sales tax) and "sales price" (use tax). These code sections have been amended to clarify that the terms, which are the base upon which the sales tax and the use tax are calculated, include "the proceeds from ... property sold through a marketplace by a marketplace facilitator."

Marketplace Facilitators and Other Sellers Required to Collect and Remit Use Tax. Code Section 12-36-1340, which lists sellers that are required to obtain a retail license and collect and remit the South Carolina use tax, has been amended to include retail sellers who solicit and receive purchases or orders by an independent contractor, a representative, an Internet website, or any other means; retail sellers who operate as a marketplace facilitator; and retail sellers who meet constitutional standards for economic nexus with South Carolina for purposes of the sales and use tax.

Additional Information. For additional information on marketplace facilitators and the South Carolina sales and use tax, see SC Revenue Ruling #19-6.

Effective Date: April 26, 2019

House Bill 4000, Part IB, Section 73, Proviso 73.6 (Act No. 91)

Certain Energy Efficient Manufactured Homes – Exemption Extended

Code Section 12-36-2110(B) allows an exemption on the sale of a manufactured home designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each agency’s energy saving efficiency requirements or designated as meeting or exceeding such requirements under each agency’s ENERGY STAR program. The exemption was effective from July 1, 2009 through July 1, 2019.

This temporary proviso extends the exemption for sales of qualifying manufactured homes until June 30, 2020.

Effective Date: This temporary proviso is effective for State fiscal year July 1, 2019 through June 30, 2020. It will expire June 30, 2020, unless reenacted by the General Assembly in the next legislative session.

House Bill 4000, Part IB, Section 109, Proviso 109.13 (Act No. 91)

Clothing Used in Perishable Prepared Food Manufacturing Facilities

This temporary proviso exempts from sales and use tax certain clothing required by Current Good Manufacturing Practices as set forth in 21 C.F.R. Section 111.10, as it may be amended, used at perishable prepared food manufacturing facilities as defined by the North American Industry Classification System 311991 to prevent health hazards.

Clothing eligible for this exemption includes outer garments, gloves of an impermeable material, hairnets, headbands, beard covers, caps, hair covers or other effective hair restraints, and other attire required pursuant to 21 C.F.R. Section 110.10 for persons working in direct contact with

food, food contact surfaces, and food packaging materials to protect against contamination of food in perishable prepared food manufacturing facilities.

Effective Date: This temporary proviso is effective for State fiscal year July 1, 2019 through June 30, 2020. It will expire June 30, 2020, unless reenacted by the General Assembly in the next legislative session.

Senate Bill 439, Section 3 (Act No. 37)

Port Facility – Distribution Facility Eligibility

Code Section 12-36-2140 has been added to provide that for purposes of the exemptions in Article 21, Chapter 36, the term “distribution facility” includes, but is not limited to, a port facility as defined in Code Section 12-6-3375.

A “port facility” is defined as any publicly or privately owned facility located within South Carolina through which cargo is transported by way of a waterborne ship or vehicle to or from destinations outside South Carolina and which handles cargo owned by third parties in addition to cargo owned by the port facility’s owner.

Note: Exemptions implicated by this provision include Code Section 12-36-2120(51) and (67).

Effective Date: May 13, 2019

REENACTED TEMPORARY PROVISOS

The following temporary provisos were enacted in prior legislative sessions and were reenacted by the General Assembly in 2019. Temporary provisos are effective for the State fiscal year July 1, 2019 through June 30, 2020, and will expire June 30, 2020, unless reenacted by the General Assembly in the next legislative session.

House Bill 4000, Part IB, Section 50, Proviso 50.20 and Section 117, Proviso 117.127 (Act No. 91)

Navy Base Intermodal Facility and State Ports Authority – Distribution Facility Eligibility

Proviso 50.20 provides that the Navy Base Intermodal Facility owned by Palmetto Railways, a division of the Department of Commerce, shall be considered a distribution facility for the purpose of sales and use tax exemptions associated with the purchase of equipment and construction materials.

Proviso 117.127 provides that the State Ports Authority shall be considered a distribution facility for the purpose of sales and use tax exemptions associated with the purchase of equipment and construction materials.

Note: Exemptions implicated by these provisos include Code Section 12-36-2120(51) and (67).

House Bill 4000, Part IB, Section 117, Proviso 117.60 (Act No. 91)

Viscosupplementation Therapies – Sales and Use Tax Suspended

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

House Bill 4000, Part IB, Section 117, Proviso 117.56 (Act No. 91)

Respiratory Syncytial Virus Medicines Exemption – Effective Date

Act No. 69, Section 3.PP, of 2003 amended Code Section 12-36-2120(28)(a) to add an 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 4000, Part IB, Section 117, Proviso 117.36 (Act No. 91)

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. 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. 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.

MISCELLANEOUS

(Summarized by Subject Matter)

ADMINISTRATIVE and PROCEDURAL MATTERS

Senate Bill 160 (Act No. 13)

Department of Revenue Statewide Tax Lien Database – New System

Code Section 12-54-122(G)(4) has been added to allow the Department to implement a statewide lien filing and indexing system accessible to the public through the Internet. Upon implementation, the clerk of courts and register of deeds are relieved of any statutory obligations for filing and maintaining newly filed tax liens.

Once the statewide tax lien system is implemented, the Department will notify the clerks of court and register of deeds. The anticipated implementation date is January 1, 2020. Until implementation of the new statewide system, Code Section 12-54-122(G) continues to provide that a tax lien notice must be filed with the clerk of court or the register of deeds.

The amendments to Code Section 12-54-122(G) may not be construed to extend the effectiveness of a lien beyond ten years from the date of filing, as provided in Code Section 12-54-120.

Effective Date: July 1, 2019

Senate Bill 323 (Act No. 46)

Providing Debtor Information to Department by Financial Institutions

Code Section 12-54-265 has been added to allow the Department to request financial institutions to conduct a data match based on information provided by the Department. The Department may request information on debtors who have been named on a warrant for distraint that has been issued and filed by the Department or whose debt has been submitted to the Department for collection under the Governmental Entity Account Receivable (GEAR) program under Code Section 12-4-580. For debts named on a warrant for distraint, the debt must be at least 180 days old from the date of assessment.

Code Section 12-54-265 allows the Department to make submissions to the financial institution on a quarterly basis, or if the financial institution agrees, more frequently. A financial institution that receives a submission from the Department pursuant to Code Section 12-54-265 is required to conduct a data match and then provide the Department with certain information related to the debtor, including the debtor's full name, social security number or taxpayer identification number, address, account numbers, and information on assets and liabilities.

The financial institution must be paid a reasonable fee out of the collected funds not to exceed actual cost. Notwithstanding any other provision of law, a financial institution is not liable to a person for disclosing information to the Department, encumbering or surrendering any deposits, credits, or other personal property in response to a notice of lien or levy by the Department, or any other action taken in good faith to comply with Code Section 12-54-265.

For purposes of Code Section 12-54-265, “financial institution” means a federal, state, commercial, or savings bank, savings and loan association, cooperative bank, federal or state chartered credit union, benefit association, insurance company, safe deposit company, money market mutual fund, or investment company doing business in this State.

Effective Date: May 16, 2019

MISCELLANEOUS TAXES

Senate Bill 310 (Act No. 35)

House Bill 3849 (Act No. 97)

House Bill 4000, Part IB, Section 109, Proviso 109.15 (Act No. 91)

Unstamped Cigarettes – Declaration of Contraband and Grace Period for Certain Tax Paid Cigarettes

Background. Beginning January 1, 2019, Code Section 12-21-735 requires each cigarette distributor who first receives untaxed cigarettes for sale or distribution in South Carolina to pay the taxes imposed on the cigarettes by Code Section 12-21-620 by affixing tax stamps to each individual package of cigarettes before the packages are sold, distributed, or shipped to another person. Prior to January 1, 2019, there were no stamps required on cigarettes, and the taxes were paid on a monthly tax return filed with the Department.

Certain Cigarettes Declared Contraband – Act No. 35. Code Section 12-21-2870 has been amended to provide that, with certain limited exceptions in Chapter 21 of Title 12, cigarettes found in South Carolina that do not have the required stamps affixed to their package are contraband goods if the cigarettes are in the possession of a person:

1. Offering the cigarettes for sale or distribution and that person was not the first to receive the untaxed cigarettes in South Carolina;
2. Importing, receiving, or acquiring cigarettes for use or consumption within South Carolina; or
3. Offering the cigarettes for sale at retail within South Carolina.

Cigarettes declared to be contraband goods under Code Section 12-21-2870 may be seized by the Department, its employees, or any law enforcement agency of South Carolina without a warrant. The seized cigarettes must be delivered to the Department.

Prior to the amendment, Code Section 12-21-2870 provided that certain unstamped cigarettes which had been in South Carolina for 24 hours in possession of any retailer, or for 72 hours in possession of any wholesaler or jobber, were contraband goods subject to seizure.

Grace Period for Certain Unstamped, Tax Paid Cigarettes – Act No. 97. For the period January 1, 2019 through October 1, 2019, Act No. 97 provides that unstamped packages of cigarettes for which applicable cigarette taxes have been paid under the prior reporting method are not contraband goods subject to seizure by the Department or any peace officer of the State. Unstamped cigarettes that are not considered contraband under this provision are not subject to any fines associated with such seizure, provided the person filed a report with the Department on a form established by the Department, stating the quantity of such unstamped packages of cigarettes that were in the person’s possession as of January 1, 2019.

Report Filing Deadline – Proviso 109.15. Proviso 109.15 extends the filing deadline for the report required by Act No. 97 to October 1, 2019. Upon application, in State fiscal year July 1, 2019 through June 30, 2020, the Department must refund any fine collected in contravention of the proviso.

Effective Date: May 13, 2019 for Act No. 35
March 20, 2019 for Act No. 97
July 1, 2019 through June 30, 2020 for Proviso 109.15, Act No. 91

OTHER ITEMS

House Bill 3180 (Act No. 23)

South Carolina Servicemembers Civil Relief Act – New

Article 21, Chapter 1, Title 25 has been added to provide the “South Carolina Servicemembers Civil Relief Act” (SC Act). The SC Act provides that a violation of the federal Servicemembers Civil Relief Act, 50 U.S.C. Section 3901 et seq. (Federal Act), is a violation of the SC Act. The SC Act also expands the definition of servicemembers and supplements certain benefits and protections provided under the Federal Act. Among the protections provided under the Federal Act is relief from the assessment and collection of state property taxes, income taxes, and residence determination for state tax purposes. (See 50 U.S.C. Sections 3991, 4000-4001).

Under the SC Act, the federal definition of servicemember is expanded to include South Carolina National Guard members whose duties are authorized under Article 15 of Title 25 of the South Carolina Code for a period of more than 30 consecutive days, including duties authorized by the South Carolina Governor or in the case of a member of the National Guard of another state, service under an order of the governor of that state which is similar to South Carolina state active duty for more than 30 days.

Servicemembers under the SC Act that are not servicemembers under the federal law must provide written or an electronic copy of the order to military service before a person is subject to remedies under the SC Act. The rights of servicemembers and dependents under the SC Act and the federal Act must be posted on the South Carolina National Guard website.

Effective Date: April 26, 2019

House Bill 3586, Section 4 (Act No. 60)

911 Service Charge – Amended

Chapter 47 of Title 23, concerning the 911 Emergency Telephone System, has been clarified to provide that a 911 service charge is levied for each Commercial Mobile Radio Service (“CMRS”) connection with a place of primary use in South Carolina as defined by the Federal Mobile Telecommunications Sourcing Act (4 U.S.C. 124C8) to include: (a) the residential street address or primary business street address of the customer and (b) within the licensed service area of the home service provider. The 911 service charge is remitted monthly to the Department.

Effective Date: May 16, 2019

REENACTED TEMPORARY PROVISOS

The following temporary provisos were enacted in prior legislative sessions and were reenacted by the General Assembly in 2019. Temporary provisos are effective for the State fiscal year July 1, 2019 through June 30, 2020, and will expire June 30, 2020, unless reenacted by the General Assembly in the next legislative session.

ADMINISTRATIVE and PROCEDURAL MATTERS

House Bill 4000, Part IB, Sections 41 and 117, Provisos 41.2 and 117.85 (Act No. 91)

3% Reduction on Interest Rate on Tax Refunds

The interest rate for tax refunds paid is reduced by 3% as follows:

1. Temporary Proviso 41.2 decreases by 2% the interest rate for tax refunds paid during the current fiscal year. The revenue resulting from this 2% reduction must be used for operations of the State's Guardian ad Litem Program.
2. Temporary Proviso 117.85 decreases by 1% the interest rate for tax refunds paid during the current fiscal year. 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.

House Bill 4000, Part IB, Section 109, Proviso 109.6 (Act No. 91)

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's 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's 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 TAXES

House Bill 4000, Part IB, Section 1, Proviso 1.14 (Act No. 91)

Local Government School Buses – Motor Fuel User Fee Exemption

This temporary proviso provides that motor fuel used in school buses operated by school districts, other governmental agencies, and “head start” agencies for purposes of transporting students for school or school-related activities is exempt from the State motor fuel user fee.

Note: Motor fuel used in school buses owned by the State is exempt from the State motor fuel user fee under Code Section 12-28-710(12).

House Bill 4000, Part IB, Section 33, Proviso 33.10 (Act No. 91)

Nursing Home Bed Franchise Fee – Suspension

This temporary proviso continues to suspend the nursing home bed franchise fee imposed on February 1, 2002, but subsequently suspended July 1, 2002.

House Bill 4000, Part IB, Section 118, Proviso 118.7 (Act No. 91)

Admissions Tax Rebate – Motorsports, Tennis, and Soccer Facilities

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. In addition, any sports facility that either hosts at least one preeminent Women’s Tennis Association-sanctioned tournament or that operates as the home venue for a professional soccer team participating in the United Soccer Leagues, second division or higher, must be rebated half of the facility’s admissions tax revenue for the fiscal year and used by that facility for marketing the events held at the facility.

REMINDERS

The following provisions were enacted prior to 2019 but are being phased in or are effective in 2019 and thereafter. The provisions are summarized below for informational purposes.

MISCELLANEOUS TAXES

House Bill 3516, Section 2 (Act No. 40)

Motor Fuel User Fee – Rate Change

Code Section 12-28-310(A) imposes a user fee of sixteen cents per gallon on:

1. All gasoline, gasohol, or blended fuels containing gasoline that are used or consumed for any purpose in South Carolina; and
2. All diesel fuel, substitute fuels, or alternative fuels, or blended fuels containing diesel fuel that are used or consumed in South Carolina in producing or generating power for propelling motor vehicles.

Code Section 12-28-310(D) has been added to provide for a user fee increase by two cents a gallon each year for six years as follows:

Date of Rate Change	New User Fee Rate Per Gallon
July 1, 2017	18 cents
July 1, 2018	20 cents
July 1, 2019	22 cents
July 1, 2020	24 cents
July 1, 2021	26 cents
July 1, 2022	28 cents

Note: The inspection fee imposed under Code Section 12-28-2355(A) at the rate of one-quarter cent per gallon, and the environmental impact fee imposed under Code Section 12-28-2355(B) at the rate of one-half cent per gallon, remain unchanged.

Effective Date: July 1, 2017

Cigarette Stamp Tax Program – New Process

Beginning January 1, 2019, Code Section 12-21-735 requires each cigarette distributor who first receives untaxed cigarettes for sale or distribution in South Carolina to pay the taxes imposed on the cigarettes by Code Section 12-21-620 by affixing tax stamps to each individual package of cigarettes before the packages are sold, distributed, or shipped to another person.

Distributors may only affix tax stamps to packages of cigarettes obtained directly from a manufacturer or importer with a valid permit issued pursuant to 26 U.S.C. Section 5713. If cigarettes are manufactured in South Carolina and sold directly to consumers in South Carolina by a manufacturer or importer, the cigarette packages must be stamped by a licensed distributor before being sold.

Receipt or Possession of Unstamped Cigarettes. Only manufacturers or importers with a valid permit issued pursuant to 26 U.S.C. Section 5713 and licensed distributors may receive or possess unstamped packages of cigarettes.

Shipping Unstamped Cigarettes. Only manufacturers or importers with a valid permit issued pursuant to 26 U.S.C. Section 5713 may ship or otherwise cause to be delivered unstamped packages of cigarettes in, into, or from South Carolina, except that licensed distributors may transfer, transport, or cause to be transported unstamped cigarettes from a facility owned by the distributor to another facility owned by the distributor, wherever located.

Sales of Unstamped Cigarettes by South Carolina Licensed Distributors. Qualified South Carolina licensed distributors may sell cigarettes without tax stamps affixed to the package where:

1. The cigarettes are set forth in separate stock for sale to a licensed cigarette distributor in another state;
2. If the cigarettes are not in the possession of a qualified South Carolina licensed distributor, the cigarettes must be in the possession of a person who is a licensed distributor of cigarettes in another state, and the cigarettes must be purchased for the purpose of resale in the other state;
3. The cigarettes, at the time of sale by the South Carolina licensed distributor, are properly stamped with revenue stamps authorized and issued by another state for use on the cigarettes, if the other state requires revenue stamps, or any applicable tax imposed on the cigarettes by the other state has been paid if the law of the other state permits the sale of the cigarettes to consumers in a package not bearing a stamp; and
4. At all times there is an invoice accompanying the cigarettes which indicates the purchase date, the name, address, and telephone number of the seller, and the name, address, and telephone number of the purchaser. A distributor shall have on file a record of each sale, the original purchase order, a copy of the invoice, and a signed receipt from the purchaser showing that the purchase was made exclusively for resale in another state.

Stamp Requirements. Cigarette stamps must meet the following requirements:

1. The Department will designate the type of stamps to be applied by rules and regulations.
2. The cigarette tax stamps and tax exempt stamps must be of a type that when affixed on each individual package the stamps cannot be removed without being mutilated or destroyed.
3. All stamps must contain a serial number or other mark which identifies the distributor that affixed the stamp to the particular package of cigarettes, and all stamps must note whether taxes were paid or whether the package of cigarettes was exempt from the taxes.

Sale and Affixture of Cigarette Stamps. The following provisions concerning cigarette stamps were added:

1. Cigarette tax stamps must be sold only in amounts of 30,000 or multiples of 30,000, and the stamps may only be affixed to packages of cigarettes listed on the South Carolina Tobacco Directory published by the Office of the Attorney General. See <http://www.scag.gov/civil/tobacco>.
2. Where the sale of cigarettes falls under the tax exemption in Code Section 12-21-100 (for sales made to the United States for military use or resale to military personnel and sales to ships engaged in foreign or coastwise shipping), distributors must affix stamps indicating packages of cigarettes are exempt from tax.
3. The Department will furnish stamps for taxable and tax exempt cigarette packages and will provide a method of purchasing stamps by rules and regulations.
4. The Department may, by rules and regulations, authorize the sale of stamps to distributors on 30-day credit periods. Distributors authorized to pay by credit would be required to execute a bond equal to 110% of the distributor's estimated tax liability for 30 days, but not less than \$2,000, on the condition that the distributor pays all cigarette stamp taxes due to the State. Payment for each month's liability is due on or before the 20th day of each month, including Sundays and holidays. The Department has the discretion to revoke a distributor's privilege to purchase stamps in the event of default in the bonding and payment provisions.
5. The Department may appoint cigarette manufacturers and distributors, located inside or outside of South Carolina, as agents to buy or affix cigarette tax stamps. An agent may appoint a person in his employ to affix the stamps to any cigarette under the agent's control. When the Department sells and delivers cigarette tax stamps to an agent, the agent is entitled to a 4.25% discount on the face value of the stamps as compensation for his services and expenses as an agent in affixing and accounting for the cigarette taxes.

6. The Department, by rules and regulations, may authorize a process allowing for a credit for damaged stamps, for product returned as unsellable, and for product unrecoverable as a result of bad debt.

Other Provisions. Other provisions of the cigarette tax law include:

1. Tax Meter Machines. The Department may, by rules and regulations, authorize licensed distributors to use other devices to imprint distinctive markings or to make tax stamps indicating the payment of the tax on each individual package. The machines must accurately record or meter the number of impressions or tax stamps made. The tax meter machines or other devices must be kept available for inspection by the Department at all reasonable times.
2. Tax Credit for Stamping Machine and Equipment. A distributor is allowed a tax credit for the purchase of one stamping machine and equipment within one year of implementation by the Department. The amount of the credit would equal the direct costs (excluding shipping, installation, and ongoing maintenance costs) actually incurred by a distributor to acquire a stamping machine and equipment, as determined by the Department, up to a maximum credit of \$175,000. The total credit is divided by 18, and the distributor is able to claim the credit in 18 equal monthly installments beginning the first calendar month following the purchase of the machine and equipment and continuing for the immediately succeeding 17 months. Any tax credit must only be applied to the tax remitted pursuant to Chapter 21 of Title 12.

For additional information, see SC Regulation 117-1600, which is applicable to the new cigarette stamp tax process, and the “Miscellaneous Section” above for a summary of 2019 legislative changes concerning cigarette taxes.

Effective Date: January 1, 2019

OTHER ITEMS

House Bill 3516, Section 8 (Act No. 40)

New Motor Carrier Road Use Fee – Administered by the Department of Motor Vehicles

In 2017, the General Assembly enacted the South Carolina Infrastructure and Economic Development Reform Act (Act No. 40) to address the needs of South Carolina’s transportation infrastructure system. Article 23, Chapter 37, Title 12, concerning property taxation of motor carriers, has been amended to impose a new motor carrier road use fee on a motor carrier’s large commercial motor vehicles and buses. The South Carolina Department of Motor Vehicles will assess and administer the road use fee.

Previously, the South Carolina Department of Revenue assessed and administered an ad valorem property tax on a motor carrier's large commercial motor vehicles and buses. The amendments to Article 23 no longer subject large commercial motor vehicles and buses of a motor carrier to ad valorem property taxes. These vehicles are now subject to a road use fee. Small commercial motor vehicles are not subject to the road use fee and must be licensed and registered, and are subject to ad valorem taxes as otherwise provided by law. Code Section 12-37-2815.

Questions concerning these provisions should be directed to the South Carolina Department of Motor Vehicles.

Effective Date: January 1, 2019

House Bill 3516, Section 3 (Act No. 40)

Motor Carrier Road Tax – Rate Change

Code Section 56-11-410 imposes a road tax on every motor carrier for the privilege of using the streets and highways of South Carolina. The road tax is calculated on the amount of gasoline or other motor fuel used by the motor carrier in its operations in South Carolina, provided the motor carrier is allowed a credit against the road tax for the South Carolina motor fuel user fee imposed by Code Section 12-28-310 and paid by the carrier for operations within and without South Carolina.

Prior to July 1, 2017, the road tax was sixteen cents per gallon. Code Section 56-11-410(A) was amended so that the road tax is imposed at the same rate as the motor fuel user fee imposed by Code Section 12-28-310. Therefore, the road tax will increase two cents a gallon each year for six years as follows:

Date of Rate Change	New Road Tax Rate Per Gallon
July 1, 2017	18 cents
July 1, 2018	20 cents
July 1, 2019	22 cents
July 1, 2020	24 cents
July 1, 2021	26 cents
July 1, 2022	28 cents

Effective Date: July 1, 2017

LIST OF TEMPORARY PROVISOS

Temporary provisos were enacted as part of the 2019 annual budget - House Bill 4000, Part IB (Act No. 91). They are effective only for the current State fiscal year (July 1, 2019 – June 30, 2020). They expire on June 30, 2020, 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

Income Taxes

- Proviso 73.6 Energy Efficient Manufactured Homes – Credit Extended
- Proviso 118.15 Individual Income Tax Refund (Rebate) – One Time \$50 Check

Property Taxes

- Proviso 117.128 Improvements to Property Damaged by Catastrophic Weather Event – Addition of Hurricane Florence and Extension

Sales and Use Taxes

- Proviso 73.6 Energy Efficient Manufactured Homes – Exemption Extended
- Proviso 109.13 Clothing Used in Perishable Prepared Food Manufacturing Facilities – New Exemption

Miscellaneous Taxes

- Proviso 109.15 Unstamped Cigarettes – Declaration of Contraband and Grace Period for Certain Tax Paid Cigarettes – Report Filing Deadline

REENACTED PROVISOS

Income Taxes

- Proviso 1A.9 Teaching Supplies and Materials - Reimbursement Amount Not Taxable or Refundable Income Tax Credit
- Proviso 1A.10 Teacher of the Year Awards - Not Subject to South Carolina Income Tax
- Proviso 117.121 Retail Facilities Revitalization Act – Repeal of Act Suspended
- Proviso 118.10 Consumer Protection Services – Individual Income Tax Deduction

Property Taxes

- Proviso 1.47 Index of Taxpaying Ability – Imputed Value for Owner-Occupied Residential Property
- Proviso 109.12 Notification of Protest to Affected County and School District
- Proviso 113.8 Agricultural Use Exemption for Timberland – Impact of Additional County Requirements
- Proviso 117.37 Personal Property Tax Relief Fund
- Proviso 117.121 Retail Facilities Revitalization Act – Repeal of Act Suspended

Sales and Use Taxes

- Provisos 50.20 Navy Base Intermodal Facility and State Ports Authority – Distribution Facility and 117.127 Eligibility
- Proviso 117.36 Private Schools – Use Tax Exemption
- Proviso 117.56 Respiratory Syncytial Virus Medicines Exemption – Effective Date
- Proviso 117.60 Viscosupplementation Therapies – Sales and Use Tax Suspended

Miscellaneous (Administrative and Procedural, Miscellaneous Taxes, and Other Items)

Administrative and Procedural Matters:

- Provisos 41.2 3% Reduction on Interest Rate on Tax Refunds and 117.85
- Proviso 109.6 Voluntary Website Posting of Tax Return Information for Candidates and Gubernatorial Appointees

Miscellaneous Taxes:

- Proviso 1.14 Local Government School Buses – Motor Fuel User Fee Exemption
- Proviso 33.10 Nursing Home Bed Franchise Fee – Suspension
- Proviso 118.7 Admissions Tax Rebate – Motorsports, Tennis, and Soccer Facilities