~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED

May 18, 2010

**S. 405**

Introduced by Senator Cleary

S. Printed 5/18/10--H.

Read the first time May 14, 2009.

**A** **BILL**

TO AMEND SECTION 12-37-220 OF THE 1976 CODE, RELATING TO PROPERTY TAX EXEMPTIONS, TO CLARIFY THAT A WATERCRAFT AND ITS MOTOR MAY NOT RECEIVE A FORTY-TWO AND 75/100 PERCENT EXEMPTION IF THE BOAT OR WATERCRAFT IS CLASSIFIED AS A PRIMARY OR SECONDARY RESIDENCE FOR PROPERTY TAX PURPOSES; TO AMEND SECTION 12-37-224, RELATING TO BOATS AS A PRIMARY OR SECONDARY RESIDENCE, TO PROVIDE THAT A BOAT OR WATERCRAFT THAT CONTAINS A COOKING AREA WITH AN ONBOARD POWER SOURCE, A TOILET WITH EXTERIOR EVACUATION, AND A SLEEPING QUARTER, SHALL BE CONSIDERED A PRIMARY OR SECONDARY RESIDENCE FOR PURPOSES OF AD VALOREM PROPERTY TAXATION IN THIS STATE; AND TO AMEND SECTION 12-37-714, RELATING TO BOATS WITH A SITUS IN THIS STATE, TO PROVIDE THAT UPON AN ORDINANCE PASSED BY THE LOCAL GOVERNING BODY, A COUNTY MAY SUBJECT A BOAT, INCLUDING ITS MOTOR IF THE MOTOR IS SEPARATELY TAXED, TO PROPERTY TAX IF IT IS WITHIN THIS STATE FOR NINETY DAYS IN THE AGGREGATE, REGARDLESS OF THE NUMBER OF CONSECUTIVE DAYS.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 12‑37‑220(B)(38)(b) of the 1976 Code is amended to read:

“(b) By ordinance, a governing body of a county may exempt from the property tax, forty‑two and 75/100 percent of the fair market value of a watercraft and its motor. This exemption for a watercraft motor applies whether the motor is located in, attached to, or detached from the watercraft. This exemption does not apply to a boat or watercraft classified for property tax purposes as a primary or secondary residence pursuant to Section 12‑37‑224.”

SECTION 2. Section 12‑37‑714(2) of the 1976 Code is amended to read:

“(2) A boat, including its motor if the motor is separately taxed, which is not currently taxed in this State and is not used exclusively in interstate commerce, is subject to property tax in this State if it is present within this State for sixty consecutive days or for ninety days in the aggregate in a property tax year~~, or upon an ordinance passed by the local governing body, one hundred eighty days in the aggregate in a property tax year~~. Upon an ordinance passed by the local governing body, a county may subject a boat, including its motor if the motor is separately taxed, to property tax if it is within this State for ninety days in the aggregate, regardless of the number of consecutive days. Also, upon an ordinance passed by the local governing body, a county may increase the number of days in the aggregate a boat, including its motor if the motor is taxed separately, must be in this State to be subject to property tax to one hundred eighty days in a property tax year, regardless of the number of consecutive days. Upon written request by a tax official, the owner must provide documentation or logs relating to the whereabouts of the boat in question. Failure to produce requested documents creates a rebuttable presumption that the boat in question is taxable within this State.”

SECTION 3. Section 12‑37‑224 of the 1976 Code, as last amended by Act 66 of 2007, is further amended to read:

“Section 12‑37‑224. (A) A motor home~~, a boat or watercraft,~~ or trailer used for camping and recreational travel that is pulled by a motor vehicle on which the interest portion of indebtedness is deductible pursuant to the Internal Revenue Code as an interest expense on a qualified primary or secondary residence also is a primary or secondary residence for purposes of ad valorem property taxation in this State. The fair market value of a motor home~~, a boat or watercraft,~~ or trailer used for camping and recreational travel that is pulled by a motor vehicle classified for property tax purposes as a primary or secondary residence pursuant to this section must be determined in the manner that motor vehicles are valued for property tax purposes.

(B)(1) A person who owns a boat or watercraft that contains a cooking area with an onboard power source, a toilet with exterior evacuation, and a sleeping quarter, may claim one boat or watercraft as a primary residence and one boat or watercraft as a secondary residence for purposes of ad valorem property taxation in this State. The fair market value of the boat or watercraft classified for property tax purposes as a primary or secondary residence pursuant to this section must be determined in the manner that motor vehicles are valued for property tax purposes. A boat or watercraft classified for property tax purposes as a primary or secondary residence pursuant to this section is not a watercraft or motor for purposes of Section 12‑37‑220(B)(38).

(2) Only an individual may claim a qualifying boat or watercraft as his primary residence for purposes of ad valorem property taxation. The individual or his agent must certify the qualifying boat or watercraft as his primary residence pursuant to Section 12‑43‑220(c)(2)(ii). Additionally, the individual or his agent must provide any proof the assessor requires pursuant to Section 12‑43‑220(c)(2)(iv). One other qualifying boat or watercraft owned by an individual that cannot be considered a primary residence, or one other qualifying boat or watercraft owned by another person shall be considered a secondary residence for purposes of ad valorem property taxation.

(3) For purposes of this subsection a person includes an individual, a sole proprietorship, partnership, and an ‘S’ corporation, including a limited liability company taxed as sole proprietorship, partnership, or ‘S’ corporation.”

SECTION 4. Section 50‑23‑295 of the 1976 Code, as added by Act 91 of 2007, is amended to read:

“Section 50‑23‑295. (A) A certificate of title to watercraft or an outboard motor may not be transferred if the department has notice that property taxes for property tax years beginning after 1999, are owed on the watercraft or outboard motor. If transfer of title has been denied pursuant to this section, a tax receipt on the watercraft or outboard motor from the person officially charged with the collection of ad valorem taxes in the county where the taxes are due must be accepted as proof that the taxes have been paid. The bill of sale or title to watercraft or an outboard motor must require certification that property taxes that are due and payable for property tax years beginning after 1999, have been paid and are current as of the date of sale.

(B) ~~In addition to any applicable criminal penalties, falsely signing such a certification subjects the person signing the certification to a fee of five hundred dollars and suspension of any title issued in the applicant’s name by the department. The title can be reinstated upon proof to the department of payment of all taxes due and payment of the five‑hundred‑dollar fee to the department.~~

~~(C)~~ The county treasurer or other appropriate official annually, or more frequently as the county considers appropriate, shall transmit a list of delinquent taxes due on watercraft and outboard motors to the department. The list may be transmitted in any electronic format considered acceptable by the department.”

SECTION 5. A. Subsections (B) and (C) of Section 12‑6‑3610 of the 1976 Code, as last amended by Act 261 of 2008, are further amended to read:

“(B)(1) A taxpayer that constructs and places in service in this State a commercial facility for the production of renewable fuel is allowed a credit equal to twenty‑five percent of the cost to the taxpayer of constructing or renovating a building and equipping the facility for the purpose of producing renewable fuel. Production of renewable fuel includes intermediate steps such as milling, crushing, and handling of feedstock, demethylation of glycerin derived from biodiesel production, and the distillation and manufacturing of the final product.

(2) The entire credit may not be taken for the taxable year in which the facility is placed in service but must be taken in seven equal annual installments beginning with the taxable year in which the facility is placed in service. If, in one of the years in which the installment of a credit accrues, the facility with respect to which the credit was claimed is disposed of or taken out of service, the credit expires and the taxpayer may not take any remaining installment of the credit.

(3) The unused portion of an unexpired credit may be carried forward for not more than ten succeeding taxable years.

(4) As used in this subsection, ‘renewable fuel’ means liquid nonpetroleum‑based fuels that may be placed in motor vehicle fuel tanks and used as a fuel in a highway vehicle. It includes all forms of fuel commonly or commercially known or sold as biodiesel and ethanol. A ‘renewable fuel’ also means solid nonpetroleum‑based fuels that are State Energy Office approved to produce electricity that may be used for charging the batteries of an electrically powered highway vehicle. It includes nonhazardous industrial solid waste recovered by a materials recovery facility as defined in Chapter 96, Title 44, the Solid Waste Policy and Management Act of 1991.

(5) A taxpayer that claims any other credit allowed under this article with respect to the costs of constructing and installing a facility may not take the credit allowed in this section with respect to the same costs.

(C)(1) To obtain the amount of credit available to a taxpayer, the taxpayer must submit a request for credit to the State Energy Office ~~by January thirty‑first~~ for all qualifying property or a qualifying facility, as applicable, placed in service in the previous calendar year and the State Energy Office must notify the taxpayer that it qualifies for the credit and the amount of credit allocated to the taxpayer ~~by March first of that year~~ within thirty days. A taxpayer may claim the credit for its taxable year which contains the December thirty‑first of the previous calendar year. The Department of Revenue may require any documentation that it deems necessary to administer the credit.

(2) For the state’s fiscal year beginning July 1, 2008, the credit is to be determined based on an eighteen‑month period beginning July 1, 2008, through December 31, 2009. ~~Applications are to be made by January 31, 2010, for the previous eighteen‑month period commencing July 1, 2008, and ending December 31, 2009.~~ A taxpayer allocated a credit for this eighteen‑month period may claim the credit for its tax year which contains December 31, 2009.”

B. Subsections (C) and (D) of Section 12‑6‑3620 of the 1976 Code, as last amended by Act 261 of 2008, are further amended to read:

“(C) For purposes of this section:

(1) ‘Biomass resource’ means noncommercial wood, by‑products of wood processing, demolition debris containing wood, agricultural waste, animal waste, sewage, landfill gas, nonhazardous industrial solid waste recovered by a materials recovery facility as defined in Chapter 96, Title 44, the Solid Waste Policy and Management Act of 1991, and other organic materials, not including fossil fuels.

(2) ‘Commercial use’ means a use intended for the purpose of generating a profit.

(3) If the equipment ceases to use biomass resources as its primary fuel source before the entire credit has been utilized, the taxpayer is ineligible to utilize any remaining credit until it resumes using biomass resources as its primary fuel source (at least ninety percent). The fifteen‑year carry forward period must not be extended due to periods of noncompliance.

(D)(1) To obtain the ~~maximum~~ amount of credit available to a taxpayer, a taxpayer must submit a request for credit to the State Energy Office ~~by January thirty‑first~~ for all qualifying equipment placed in service in the previous calendar year and the State Energy Office must notify the taxpayer that it qualifies for the credit and the amount of credit allocated to the taxpayer ~~by March first of that year~~ within thirty days. A taxpayer may claim the maximum amount of the credit for its taxable year which contains the December thirty‑first of the previous calendar year. The Department of Revenue may require any documentation that it deems necessary to administer the credit.

(2) For the state’s fiscal year beginning July 1, 2008, the maximum amount of the credit is to be determined based on an eighteen‑month period beginning July 1, 2008, through December 31, 2009. ~~Applications are to be made by January 31, 2010, for the previous eighteen‑month period commencing July 1, 2008, and ending December 31, 2009.~~ A taxpayer allocated a credit for this eighteen‑month period may claim the credit for its tax year which contains December 31, 2009.

(3) To the extent the maximum amount of the credit contained in this section is repealed, the elimination of the maximum amount shall be seen as the last expression of the legislature and to the extent any language in this act conflicts with that repeal, it shall be considered null and void.”

C. Section 12‑6‑3631 of the 1976 Code, as last amended by Act 261 of 2008, is further amended to read:

“Section 12‑6‑3631. (A) For taxable years beginning after 2007, and before 2012, a taxpayer is allowed a credit against the income tax imposed pursuant to this chapter for qualified expenditures for research and development.

(B) For purposes of this section:

(1) ‘Qualified expenditures for research and development’ means expenditures to develop feedstocks and processes for cellulosic ethanol and for algae‑derived biodiesel, including:

(a) enzymes and catalysts involving cellulosic ethanol and algae‑derived biodiesel;

(b) best and most cost efficient feedstocks for South Carolina; ~~or~~

(c) product and development, including cellulosic ethanol or algae‑derived biodiesel products; or

(d) demethylation of glycerin derived from biodiesel production.

(2) ‘Cellulosic ethanol’ means fuel from ligno‑cellulosic materials, including wood chips derived from noncommercial sources, corn stover, and switchgrass.

(C) The credit is equal to twenty‑five percent of qualified expenditures for research and development. A taxpayer’s total credit in all years, for all expenditures allowed pursuant to this section, must not exceed one hundred thousand dollars. Unused credits may be carried forward for five years after the tax year in which a qualified expenditure was made. The credit is nonrefundable.

(D) Expenditures qualifying for a tax credit allowed by this section must be certified by the State Energy Office. The State Energy Office may consult with the Department of Agriculture and the South Carolina Institute for Energy Studies on standards for certification.

(E)(1) To obtain the ~~maximum~~ amount of the credit available to a taxpayer, each taxpayer must submit a request for the credit to the State Energy Office ~~by January thirty‑first~~ for qualifying research expenses incurred in the previous calendar year and the State Energy Office must notify the taxpayer that the submitted expenditures qualify for the credit and the amount of credit allocated to such taxpayer ~~by March first of that year~~ within thirty days. A taxpayer may claim the maximum amount of the credit for its taxable year which contains the December thirty‑first of the previous calendar year. The Department of Revenue may require any documentation that it deems necessary to administer the credit.

(2) For the state’s fiscal year beginning July 1, 2008, the maximum amount of the credit is to be determined based on an eighteen‑month period beginning July 1, 2008, through December 31, 2009. ~~Applications are to be made by January 31, 2010, for the previous eighteen‑month period commencing July 1, 2008, and ending December 31, 2009.~~ A taxpayer allocated a credit for this eighteen‑month period may claim the credit for its tax year which contains December 31, 2009.

(3) To the extent the maximum amount of the credit contained in this section is repealed, the elimination of the maximum amount shall be seen as the last expression of the legislature and to the extent any language in this act conflicts with that repeal, it shall be considered null and void.”

D. Section 12‑63‑20 of the 1976 Code, as last amended by Act 261 of 2008, is further amended to read:

“Section 12‑63‑20. (A)(1) An incentive payment for an alternative fuel purchase is provided beginning after June 30, 2009, and ending before July 1, 2012, and shall be provided from the general fund, excluding revenue derived from the sales and use tax as follows:

(a) five cents to the retailer for each gallon of E70 fuel or greater sold, provided that the ethanol‑based fuel is subject to the South Carolina motor fuel user fee;

(b) twenty‑five cents to the retailer for each gallon of pure biodiesel fuel sold so that the biodiesel in the blend is at least two percent B2 or greater, provided that the qualified biodiesel content fuel is subject to the South Carolina motor fuel user fee. Biodiesel fuel is a fuel for motor vehicle diesel engines comprised of vegetable oils or animal fats and meeting the specifications of the American Society of Testing and Materials (ASTM) D6751 or (ASTM) D975 blended stock; ~~and~~

(c) twenty‑five cents to the retailer or wholesaler for each gallon of pure biodiesel fuel sold as dyed diesel fuel for ‘off‑road’ uses, so that the biodiesel in the blend is at least two percent B2 or greater; and

(d) five cents to the retailer or wholesaler for each pound of renewable fuel or biomass resource sold to produce electricity which may be used to recharge electric highway vehicles.

(2) The payments allowed pursuant to this subsection must be made to the retailer upon compliance with verification procedures set forth by the Department of Agriculture.

(B)(1) An incentive payment for production of electricity or energy is provided pursuant to subitems (a) and (b), beginning after June 30, 2008, and ending before July 1, 2018, and shall be provided from the general fund, excluding revenue derived from the sales and use tax as follows:

(a) One cent per kilowatt‑hour (kwh) for electricity produced from biomass resources in a facility not using biomass resources before June 30, 2008, or facilities which produce at least twenty‑five percent more electricity from biomass resources than the greatest three‑year average before June 30, 2008, up to a maximum of one hundred thousand dollars per year per taxpayer for five years. The incentive payment is also applicable to electricity from a qualifying facility placed in service and first producing electricity on or after July 1, 2008. The incentive payment extends for five years, and ends on July 1, 2013, or five years from the date the facility was placed in service and first produced electricity. In no case shall the incentive payment apply after June 30, 2018.

(b) Thirty cents per therm (100,000 Btu) for energy produced from biomass resources in a facility not using biomass resources before June 30, 2008, for biomass resources or renewable fuels produced by a facility to be used for energy production, or facilities which utilize at least twenty‑five percent more energy from biomass resources than the greatest three‑year average before June 30, 2008, up to a maximum of one hundred thousand dollars per year per taxpayer for five years. The incentive payment is also applicable to energy from a qualifying facility placed in service and first producing energy on or after July 1, 2008. The incentive payment extends for five years, and ends on July 1, 2013, or five years from the date the facility was placed in service and first produced energy. In no case shall the incentive payment apply after June 30, 2018.

The incentive payment for the production of electricity or thermal energy may not be claimed for both electricity and energy produced from the same biomass resource.

(2) For purposes of this subsection, a biomass resource means wood, wood waste, agricultural waste, animal waste, sewage, landfill gas, nonhazardous industrial solid waste recovered by a materials recovery facility as defined in Chapter 96, Title 44, the Solid Waste Policy and Management Act of 1991, and other organic materials, not including fossil fuels.

(C) The Department of Revenue may prescribe forms and procedures, issue policy documents, and distribute funds as necessary to ensure the orderly and timely implementation of the provisions of this section. The Department of Revenue shall coordinate with the Department of Agriculture as necessary.”

E. Notwithstanding any other effective date provided in this act, the provisions of this section take effect upon approval of this act by the Governor.

SECTION 6. This act takes effect upon approval by the Governor.

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