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COMMITTEE REPORT

March 12, 2019

**H. 3985**

Introduced by Reps. Lucas, G.M. Smith and Stavrinakis

S. Printed 3/12/19--S.

Read the first time February 28, 2019.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (H. 3985) to amend Section 12‑6‑40, as amended, Code of Laws of South Carolina, 1976, relating to the application of the Internal Revenue Code, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

HUGH K. LEATHERMAN, SR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on February 14, 2019**

**State Expenditure**

This bill requires the Department of Revenue to administer any tax form or instruction changes from updating South Carolina’s conformity to the IRC through December 31, 2018. These activities are a continuation of existing agency responsibilities and will not have an expenditure impact on the General Fund, Federal Funds, or Other Funds.

**State Revenue**

This bill updates South Carolina’s conformity to the IRC through December 31, 2018. Recently, Act 266 of 2018 conformed to changes through February 8, 2018, including the Bipartisan Budget Act of 2018. No other federal acts affecting income taxes were passed in 2018.

In addition, this bill proactively adopts any expired provisions of the federal code that are extended, but not otherwise amended, by congressional enactment during 2019. This contingency addresses the twenty-six federal provisions that expired at the end of 2017 and two that expired in 2018. Congress may adopt these provisions retroactively, which has occurred annually in recent years. Research by the Department of Revenue (DOR) suggests that six of the provisions that expired at the end of 2017 potentially will impact South Carolina taxable income and these provisions are noted in the table below. These provisions were most recently extended through December 31, 2016, in the Bipartisan Budget Act of 2018. The two provisions that expire in 2018 do not affect South Carolina taxable income.

If Congress does not reinstate these provisions, the resulting increase in South Carolina taxable income would increase General Fund income tax revenue by $5,501,000 in FY 2019-20. This revenue impact will occur whether or not the General Assembly enacts legislation to update the IRC conformity through December 31, 2018, because the provisions and expirations are already adopted by previous conformity legislation. The table below provides a brief summary of the provisions, including their expected $5,501,000 revenue impact on General Fund income tax revenue in FY 2019-20 if Congress retroactively enacts them in 2019.

When the Board of Economic Advisors (BEA) set the initial forecast for FY 2019-20 in November 2018, the expectation was that Congress would extend these expiring federal tax provisions. The BEA General Fund forecast included the revenue impact of extending these provisions as part of the income tax base since most of these provisions have been in effect for many years. The BEA will monitor this situation and any adjustment to the FY 2019-20 revenue forecast will be addressed later in the legislative session based on any federal or state legislation.

**Expired 2017 Federal Tax Provisions Under First Potential**

**Consideration by Congress Enacted Impact**

1 Discharge of indebtedness on principal residence

excluded from gross income of individuals 2007 $ 2,050,000

2 Premiums for mortgage insurance deductible as

interest that is qualified residential interest 2006 $ 1,265,000

3 Deduction for qualified tuition and related

expenses 1978 $ 1,874,000

4 Seven-year recovery period for certain

motorsports racing facilities 2004 $ 58,000

5 Special expensing rules for certain film and

television productions 2004 $ 39,000

6 Change the depreciation classification for race

horses that are two years old or younger from

seven-year property to three-year property 2008 $ 215,000

Total   $ 5,501,000

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 12‑6‑40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE APPLICATION OF THE INTERNAL REVENUE CODE TO STATE INCOME TAX LAWS, SO AS TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE TO THE YEAR 2018 AND TO PROVIDE THAT IF THE INTERNAL REVENUE CODE SECTIONS ADOPTED BY THIS STATE ARE EXTENDED, THEN THESE SECTIONS ALSO ARE EXTENDED FOR SOUTH CAROLINA INCOME TAX PURPOSES.

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

SECTION 1. Section 12‑6‑40(A)(1)(a) and (c) of the 1976 Code, as last amended by Act 266 of 2018, is further amended to read:

“(a) Except as otherwise provided, ‘Internal Revenue Code’ means the Internal Revenue Code of 1986, as amended through ~~February 9, 2018~~ December 31, 2018, and includes the effective date provisions contained in it.

(c) If Internal Revenue Code sections adopted by this State which expired or portions thereof expired on December 31, 2017, or during 2018, are extended, but otherwise not amended, by congressional enactment during ~~2018~~ 2019, these sections or portions thereof also are extended for South Carolina income tax purposes in the same manner that they are extended for federal income tax purposes.”

SECTION 2. This act takes effect upon approval by the Governor.

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