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CHAPTER 4.

 THE SOUTH CAROLINA DEPARTMENT OF REVENUE

ARTICLE 1.

 DEPARTMENT ORGANIZATION

**SECTION 12‑4‑10.** Department of Revenue created.

The South Carolina Department of Revenue is created to administer and enforce the revenue laws of this State; administer the licensing laws and regulations relating to alcoholic liquors, beer, and wine and assess penalties for violations thereof; and other laws specifically assigned to it.

**SECTION 12‑4‑15.** Departmental divisions; supervision.

The Department of Revenue must be divided into such divisions as the director may prescribe.

**SECTION 12‑4‑20.** Offices, materials and supplies.

The department must be provided all necessary offices, furniture, equipment, books, periodicals, and supplies necessary to conduct its duties.

**SECTION 12‑4‑30.** Appointment of director; disposition of contested cases.

(A) The department is governed in matters of policy and administration by a director appointed by the Governor with the advice and consent of the Senate. The director may be removed from office pursuant to the provisions of Section 1‑3‑240.

(B) All contested cases, as defined by Section 1‑23‑310 must be heard by an administrative law judge pursuant to the provisions of Chapter 23 of Title 1.

**SECTION 12‑4‑40.** Oath of office.

The director, within thirty days after notice of appointment and before taking office, shall take and file with the Secretary of State the oath of office prescribed by the State Constitution.

**SECTION 12‑4‑70.** Restriction on political activity and other acts of chairman interfering with or inconsistent with duties.

The director of the department shall devote the time required to perform the duties of the office and may not:

(1) engage in any occupation or business interfering with or inconsistent with his duties;

(2) serve on or under a committee of a political party; or

(3) contribute, directly or indirectly, money or anything of value in support of a candidate for office or to a political organization.

ARTICLE 3.

 GENERAL POWERS AND DUTIES

**SECTION 12‑4‑310.** Mandated powers and duties.

The department shall:

(1) hold meetings, as considered necessary. The department may hold meetings, transact business, or conduct investigations at any place necessary; however, its primary office is in Columbia;

(2) formulate and recommend legislation to enhance uniformity, enforcement, and administration of the tax laws, and secure just taxation and improvements in the system of taxation;

(3) consult and confer with the Governor upon the subject of taxation, the administration of the laws, and the progress of the work of the department, and furnish the Governor reports, assistance, and information he may require;

(4) prepare and publish, annually, statistics reasonably available with respect to the operation of the department, including amounts collected, and other facts it considers pertinent and valuable;

(5) make available to the authorities of a political subdivision information reported to the department pursuant to the requirements of Chapter 36 of this title of businesses licensed under Section 12‑36‑510 in the requesting political subdivision.

(6) hire all necessary personnel, including officers, agents, deputies, experts, and assistants, and assign to them duties and powers as the department prescribes;

(7) require those of its officers, agents, and employees it designates to give bond for the honest performance of their duties in the sum and with the sureties it determines; and all premiums on the bonds must be paid by the department;

(8) pay travel expenses, purchase, or lease all necessary facilities, equipment, books, periodicals, and supplies for the performance of its duties;

(9) exercise and perform other powers and duties as granted to it or imposed upon it by law; and.

(10) make available to the authorities of a municipality or county in this State levying a tax based on gross receipts or net taxable sales, any records indicating the amount of gross receipts or net taxable sales reported to the department; provided, however, that income tax records may be made available only if the department first has satisfied itself that the gross receipts reported to the municipality or county were less than the gross receipts as indicated by the records of the department.

**SECTION 12‑4‑320.** Permissive powers and duties; rules, regulations, rulings, decisions; agreement or compromise as to taxpayer liabilities.

The department may:

(1) make rules and promulgate regulations, not inconsistent with law, to aid in the performance of its duties. The department may prescribe the extent, if any, to which these rules and regulations must be applied without retroactive effect;

(2) upon written application, determine the tax effects of transactions and the tax liability of taxpayers, upon facts furnished to it, and it may revoke or modify the rulings if the facts should develop differently later. The department, in its discretion, may publish these rulings. This publication may be in brief hypothetical form so as to give all pertinent facts and decisions without violating the provisions of Section 12‑54‑240;

(3) compromise any tax, interest, or penalty imposed by this title or other law assigned to it and may return to the owner, in whole or in part, any goods seized or confiscated;

(4) enter into a written agreement with a person with regard to a tax liability. If the agreement is approved by the director, it is final and conclusive and the case may not be reopened by administrative or judicial action or otherwise, except in cases of fraud, malfeasance, or misrepresentation;

(5) publish its findings and decisions in all controversies resolved by it. This publication may be in brief hypothetical form so as to give all pertinent facts, decisions, and reasons without violating the provisions of Section 12‑54‑240.

(6) for damage caused by war, terrorist act, or natural disaster or service with the United States armed forces or national guard in or near a hazard duty zone, extend the date for filing returns, payments of taxes, collection of taxes, and conducting audits, and waive interest and penalties.

(7) enter into an installment payment agreement with a taxpayer.

**SECTION 12‑4‑325.** Defense and indemnification of department of revenue employees and officers.

(A) The State shall defend employees and officers of the Department of Revenue against liability arising out of their actions within the scope of their employment and indemnify them from resulting loss when they are sued in their official or individual capacities, or both.

(B) Department of Revenue employees and officers are acting within the scope of their employment when administering any South Carolina statute which has not been held to be unconstitutional or unlawful by a final decision of a court of competent jurisdiction. For purposes of this section, a final decision is the decision of a court declaring the South Carolina statute unconstitutional or otherwise unlawful and from which the appropriate officials of this State may not or do not take an appeal or request a rehearing.

**SECTION 12‑4‑330.** Witnesses before department.

(A) The director may summon witnesses to appear and give testimony and to produce records, books, papers, and documents relating to any matters which the department has authority to investigate or determine.

(B) The director may cause the deposition of witnesses residing within or without the State or absent from the State to be taken upon notice to the interested party, if any, in the manner that depositions of witnesses are taken in civil actions pending in the circuit court in any matter which the department has authority to investigate or determine.

(C) Oaths to witnesses may be administered by the department. A person who testifies falsely in a matter under consideration by the department is guilty of and, upon conviction, will be punished for perjury.

(D) An officer who serves summons or subpoenas and a witness appearing before the Department of Revenue receive the same compensation as an officer and a witness in the circuit court. The department may incur and pay the expense of obtaining expert witnesses or of other evidence for use by the department in a judicial or administrative proceeding. This compensation and expert witness expense must be paid upon certificate of the department by the State Treasurer, by drawing upon funds from the tax on income as provided by Section 12‑6‑510.

(E) Out‑of‑state appraisers serving as witnesses are not required to be licensed or certified in this State. For purposes of this section, out‑of‑state appraisers are defined as appraisers with a business address outside of this State.

(F) The director of the Department of Revenue and the officers designated by the director may administer oaths to any person or take acknowledgments of any person in respect of any return or report required by this title or the rules and regulations of the department.

**SECTION 12‑4‑340.** Authority to contract with collection agency to collect delinquent taxes.

The department, for the purposes of collecting delinquent taxes due from a taxpayer, may contract with a collection agency, within or without the State, for the collection of delinquent taxes, including penalties and interest as provided in Section 12‑54‑227.

**SECTION 12‑4‑350.** Contracts for computer and data processing services; confidentiality of data.

The department may contract for computer and other electronic data processing services as it considers necessary. A person, firm, or governmental entity and their employees, under contract with the South Carolina Department of Revenue, having access to information contained in or produced from a tax return, document, or magnetically or electronically stored data may not publish or disclose any part or parts of the data or information resulting from the data except to the department, or as authorized by the department, or as otherwise provided by law or by an order of a court of competent jurisdiction. This provision does not exempt the department from the provisions of the South Carolina Consolidated Procurement Code.

**SECTION 12‑4‑360.** Verification by department to retirement systems of information on individual income tax returns.

The department, when requested by the Retirement Systems Division of the State Budget and Control Board, shall verify information contained on individual income tax returns to assist the retirement systems in ascertaining if an individual receiving disability benefits has gainful employment for which he is receiving compensation. The retirement systems shall furnish the department information it requests to verify the information.

**SECTION 12‑4‑370.** Disposition of funds collected on warrants for distraint and funds in Warrant Revolving Fund.

Funds received from the collection of warrants for distraint may not be expended to supplement appropriations to the Department of Revenue. Any unexpended balance in the “Warrant Revolving Fund” less an amount necessary for adequate cash flow must be deposited to the credit of the general fund of the State.

**SECTION 12‑4‑375.** Retention and expenditure of funds from bankruptcy operations.

The Department of Revenue may retain and expend in budgeted operations the first one hundred fifty thousand dollars in each fiscal year from its bankruptcy operations to defray its administrative costs, including staff. The remaining revenue collected by the department from this source must be remitted to the general fund of the State.

**SECTION 12‑4‑377.** Records of and disposition of funds from sale of confiscated alcoholic beverages.

The Department of Revenue shall maintain adequate records accounting for the receipt of funds from the sale of confiscated alcoholic beverages. The revenue from the sale must be deposited to the credit of the general fund of the State after deducting the costs of confiscation and sale.

**SECTION 12‑4‑379.** Payment of fee required for Federal Refund Offset Program.

The Department of Revenue may incur and pay the expense of the fee required pursuant to Internal Revenue Code Section 6402(e)(6), as required for the Federal Refund Offset Program. This fee must be paid upon certification of the department by drawing upon funds from the same tax type setoff.

**SECTION 12‑4‑380.** Report to General Assembly.

Within thirty days of final settlement, the department shall report to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee, the details of all tax liabilities reduced by order of the director.

**SECTION 12‑4‑385.** Proposed change in policy concerning particular industry group; notice.

The department shall notify the appropriate licensing division of the Department of Labor, Licensing and Regulation when the department proposes a change in policy concerning a particular industry group. The department shall also notify any known industry groups.

**SECTION 12‑4‑387.** Conduct of audits to promote voluntary compliance and collection of revenues.

The Department of Revenue shall use available personnel to conduct audits involving all taxes to promote voluntary compliance and to collect revenues for the general fund of the State and designated accounts.

**SECTION 12‑4‑388.** Fees for education and training programs, certificates of compliance and other documents, and entry into installment agreements.

(A) The Department of Revenue may charge participants a fee to cover the cost of education and training programs. The revenue generated may be applied to the cost of the related operation, and any unexpended balance may be carried forward to succeeding fiscal years and used for the same purposes.

(B) The Department of Revenue may charge participants in taxpayer education and information programs required pursuant to Section 12‑58‑40 a fee to recover the related direct costs. The revenue of this fee may be applied to these costs, and any unexpended balance may be carried forward to succeeding fiscal years and used for the same purposes.

(C) The Department of Revenue may impose a sixty‑dollar fee for the issuance of each certificate of compliance and a thirty‑five dollar fee for each informal nonbinding letter concerning eligibility for infrastructure credits against the license tax. The revenue of these fees must be retained and expended for use in budgeted operations of the department.

(D) The Department of Revenue may impose a forty‑five dollar fee for entering into installment agreements for the payment of tax liabilities to defray administrative expenses. The revenue of this fee must be retained and expended for use in budgeted operations of the department.

**SECTION 12‑4‑390.** Document handling fees; disposition of bingo revenues; department employee professional licensing costs.

(A) The Department of Revenue may collect fees to recover the costs of the production, purchase, handling and mailing of documents, publications, records and data sets, and such funds shall be retained by the agency.

(B) As to revenue derived from the provisions of Chapter 21, Title 12, which is collected from bingo, the Department of Revenue may withhold from the general fund a portion of the revenue the actual costs of bingo audit activity and of criminal record checks pursuant to the evaluation of applications for bingo licenses.

(C) Whenever a professional designation or license is a legislatively mandated requirement for employment by the Department of Revenue, the department is responsible for the annual cost to maintain that required designation or license and provide for examination cost associated with such designation or license if not outside his normal duties.

**SECTION 12‑4‑393.** Contracting with private entities to establish data mining and data warehousing capabilities within department.

The Department of Revenue may contract with private entities to establish data mining and data warehousing capabilities within the department to enhance compliance and collections. These contractual arrangements may include payment from the increased revenue generated by the resulting enhanced capabilities. The department is allowed reimbursement of costs associated with administration of this section from the data warehouse generated collections and this amount may be retained and expended for budgeted operations of the department.

**SECTION 12‑4‑395.** Authority to accept payment by credit card.

The department may accept, on terms and conditions it establishes, payments to it by credit cards. This authority includes a determination not to accept credit card payments or to accept credit card payments only for certain classes of payments as specified by the department. Notwithstanding another provision of law, the State Treasurer may enter into contracts on behalf of the department by which the department may accept credit card payments. The department may withhold the actual cost of processing credit card payments from deposits of the payments and may treat these withholdings as reimbursements of the associated expenditures.

ARTICLE 5.

 POWERS AND DUTIES WITH RESPECT TO PROPERTY TAXES

**SECTION 12‑4‑510.** Power to levy taxes and order reassessment of property; grant of powers previously granted to State Board of Equalization and State Board of Assessors.

In addition to other powers and duties required by law, the department, in order to administer effectively the equitable assessment of property for taxation:

(1) has all of the powers conferred by law upon the former State Board of Equalization and upon the former State Board of Assessors before February 20, 1915;

(2) annually shall make the levy upon the assessed value of property subject to taxation necessary to raise the annual appropriations made by the General Assembly as it relates to private carlines and flight equipment;

(3) shall order reassessment of real and personal property, or any class or classes of either, or when, in the judgment of the department, the reassessment is advisable or necessary to the end that all classes of property in the assessment district are assessed in compliance with the law.

**SECTION 12‑4‑520.** Dealings with county tax officials; oversight of county taxation matters.

The department:

(1) shall call meetings of all county assessors to provide instruction as to the law governing the assessment and taxation of all classes of property and shall formulate and prescribe rules to govern assessors and county boards of tax appeals in the discharge of their duties;

(2) shall confer with, advise, and direct assessors and county boards of tax appeals as to their duties pursuant to the laws of the State;

(3) may visit counties in the State to investigate the assessment, equalization, and taxation of property subject to taxation and take action necessary to ensure the proper assessment, equalization, and taxation of the property;

(4) as often as annually, shall examine the books, papers, and accounts of assessors, auditors, treasurers, and tax collectors, to protect the interests of the State, counties, and other political subdivisions and to render these officers aid or instruction. The department does not have jurisdiction over personnel or equipment purchases of political subdivisions;

(5) shall require county auditors to place upon the assessment rolls omitted property that may have escaped assessment and taxation in whole or in part, in the current or previous years; and

(6) may extend the time for the performance of the duties imposed upon the county assessors or auditors for the valuation of property for tax purposes, and, if the department extends the time for the collection of taxes, the department may postpone the time for the imposition of penalties.

**SECTION 12‑4‑530.** Investigation and prosecution of violations.

The department shall:

(1) examine cases in which the laws of this State relating to the valuation, assessment, or taxation of property is complained of, or discovered to have been evaded or violated in any manner;

(2) require the Attorney General or circuit solicitor to assist in the commencement and prosecutions of actions and proceedings for penalties, forfeitures, removals, and punishment for violation of the laws of this State in respect to the assessment and taxation of property;

(3) direct proceedings, actions, and prosecutions to be instituted to enforce the laws relating to penalties, liabilities, and punishment of public officers and officers and agents of corporations for failure or neglect to comply with the provisions of the laws of this State governing the assessment and taxation of property and the rules of the department; and

(4) cause complaints to be made against assessors, county boards of tax appeal, or other assessing and taxing officers to the proper authority for their removal from office for official misconduct or neglect of duty.

**SECTION 12‑4‑535.** Department determinations.

(A) The department may issue a department determination directing the appropriate county official to comply with all applicable state law relating to the valuation, assessment, or taxation of property.

(B) Within thirty days of the date the department determination is mailed or hand delivered, the county must respond in writing by first class mail or hand delivery to the department and state its agreement or disagreement with the department determination.

(C) If the county disagrees with, or fails to respond to, the department determination, the department by its director or designee or the county governing body by resolution may request a contested case hearing before the Administrative Law Court within thirty days after the date the county disagreement notice was, or should have been, mailed or hand delivered. A request for a contested case hearing before the Administrative Law Court must be made in accordance with its rules.

(D) The county governing body by resolution may request a department determination on any state law regarding the valuation, assessment, or taxation of property. Within thirty days of a request by a county governing body, the department may issue, in its discretion, the determination, which must be issued by first class mail or hand delivery to the county.

**SECTION 12‑4‑540.** Appraisal, assessment and equalization by department; appraisal, assessment and equalization of certain business property.

(A)(1) The department has the sole responsibility for the appraisal, assessment, and equalization of the taxable values of corporate headquarters, corporate office facilities, and distribution facilities and of the real and personal property owned by or leased to the following businesses and used in the conduct of their business:

(a) manufacturing;

(b) railway;

(c) private carline;

(d) airline;

(e) water, heat, light and power;

(f) telephone;

(g) cable television;

(h) sewer;

(i) pipeline;

(j) mining.

(2) In addition, the department has the sole responsibility for the appraisal, assessment, and equalization of the taxable values of the personal property of merchants.

(B) Except as otherwise provided, the department may use any accepted or recognized valuation method which reflects the property’s fair market value, including methods within the unit valuation concept. In assessing railroad transportation property, the department shall use the unit valuation concept.

(C) When the unit valuation concept is used, the value allocated to this State must be distributed to the taxing entities in which the property is situated.

(D) Except as otherwise provided, the department shall assess all real and personal property, leased or used, to the owner.

(E) When the department uses the unit valuation concept, property taxes on all leased and used real and personal property must be paid by the lessee. Whether or not the unit valuation concept is used, an airline or private carlines shall pay property taxes on all leased real and personal property in its control.

(F) If the department discovers that property required by law to be returned to the department has not been returned, the department may value and assess the property. If property has been returned or assessed incorrectly, the department may value and assess the property and give notice to the taxpayer of the valuation and assessment. After the expiration of the appeal period, the department shall certify the corrected assessment to the county auditor of the county where the property is located.

**SECTION 12‑4‑550.** Requirement for public officers, and for all persons, to furnish information in connection with taxes.

The department shall:

(1) require municipal, county, and other public officers to report information as to the assessment of property, collection of taxes, receipts from licenses and other sources, and information necessary in the work of the department in the form the department prescribes; and

(2) require all persons to furnish information concerning their capital, bonded or other debts, current assets and liabilities, value of property, earnings, operating and other expenses, taxes, and other facts necessary for the department to ascertain the value and relative tax burden borne by all kinds of property.

**SECTION 12‑4‑560.** Manuals, guides, and aids to assessment; listing of property by groups and classes.

The department shall prepare appropriate manuals, guides, and other aids for the equitable assessment of all properties and prepare suitable forms for an adequate listing and description of property by groups and classes.

**SECTION 12‑4‑570.** Report of all taxable property and its value.

The department, at the request of the Governor or a member of the General Assembly, shall prepare and make available a report showing all taxable property in the State and its value in tabulated form.

**SECTION 12‑4‑580.** Authority allowing department to contract to collect outstanding liabilities.

(A) The department and another governmental entity may contract to allow the department to collect an outstanding liability owed the governmental entity. In administering the provisions of those agreements, the department has all the rights and powers of collection provided pursuant to this title for the collection of taxes and all the rights and powers authorized the governmental entity to which the liability is owed.

(B) The department may charge and retain a reasonable fee for a collection effort made on behalf of a governmental entity. The amount of the fee must be negotiated between the governmental entity and the department. The debtor must be given full credit toward the satisfaction of the debt for the amount of the fee collected by the department pursuant to this section.

(C) Governmental entities that contract with the department pursuant to this section and those entities whose debts are submitted for collection through an association shall indemnify the department against injuries, actions, liabilities, or proceedings arising from the collection or attempted collection by the department of the liability owed to the governmental entity.

(D) As used in this section:

(1) “Governmental entity” means the State and a state agency, board, committee, department, or public institution of higher learning; all political subdivisions of the State; all federal agencies, boards, and commissions; and a federal, state, county, or local governmental or quasi‑governmental entity. “Political subdivision” includes the Municipal Association of South Carolina and the South Carolina Association of Counties when these organizations submit claims on behalf of a county or local governmental or quasi‑ governmental entity.

(2) “Liabilities owed the governmental entity” has the same meaning as a “delinquent debt” as defined in Section 12‑56‑20(4).

(E) The governmental entity shall notify the debtor of its intention to submit the liability to the department for collection and of the debtor’s right to protest not less than thirty days before the liability is submitted to the department for collection. The notice, hearing, appeals, and other provisions contained in Section 12‑56‑50 through 12‑56‑120 apply to this section with additional language in the notice letter as specified by the department.

ARTICLE 7.

 APPLICATION, DETERMINATION, AND REVOCATION OF EXEMPTIONS FROM PROPERTY TAXES

**SECTION 12‑4‑710.** Department to determine exemptions.

Except for the exemption provided by Section 12‑37‑220(A)(9), the department shall determine if any property qualifies for exemption from local property taxes under Section 12‑37‑220 in accordance with the Constitution and general laws of this State. This determination must be made on an annual basis and the appropriate county official so advised by June first of each year by the department.

**SECTION 12‑4‑720.** Filing of applications for exemptions.

(A) Applications for property exemptions, other than the exemption provided by Section 12‑37‑220(A)(9), must be filed as follows:

(1) Except as otherwise provided any property owner whose property may qualify for property exemption shall file an application for exemption with the department within the period provided in Section 12‑54‑85(F) for claims for refund. This item does not relieve the taxpayer of any responsibility to file timely and accurate property tax returns.

(2) Owners of property exempt under Section 12‑37‑220(A)(8) shall file an application for exemption before the first penalty date for payment of property taxes.

(3) Applications for exemption are not required for properties owned by the United States Government or those exempt properties enumerated in Section 12‑37‑220(A)(1), (5), (6), (10), and (B)(9), (13), (14), (15), (17), (23), (25), and (30).

(B) If a taxpayer files a property tax return listing property as exempt, that listing is considered an application for exemption from property taxes.

(C) A taxpayer who is required to file property tax returns with the department shall claim any exemption on the return each year the property is exempt.

(D) Except for the requirement in subsection (C), the owner is not required to file more than one application for each exemption, unless there is a change in the status of the property as reported in the initial application or unless requesting an exemption for property which was not included in the initial or subsequent application.

**SECTION 12‑4‑730.** Declaration and certification of exemption; voiding of tax notices by auditor.

The department, upon receipt of an application and upon proper investigation, may declare the real and personal property of a property owner qualifying for an exemption from ad valorem taxation identified in this chapter as exempt and shall certify the exemption to the auditor’s office in the county in which the property is located. Upon certification by the department, the auditor shall void any tax notice applicable to the property.

**SECTION 12‑4‑740.** Information to be furnished in support of request for exemption; inspection of premises.

(A) An owner of tax‑exempt property or a property owner requesting tax exemption shall furnish information and records requested by the department. The department and its agents may examine portions of the financial records of the owners of real and personal property as necessary to determine if the property qualifies for tax‑exempt status.

(B) The department and its authorized agents may enter the premises upon reasonable notice and inspect them for tax exemption purposes.

**SECTION 12‑4‑750.** Revocation of exempt status; imposition of tax and penalty.

(A) The department may revoke tax‑exempt status if the property does not qualify or continue to qualify for tax‑exempt status under the provisions of the Constitution and the general laws of the State.

(B) If the department finds within three years from the date that taxes would have been due on property that has been granted an exemption that the exemption was for any reason improperly granted due to incomplete, misleading, or fraudulent information furnished by the applicant or its agents, the department shall notify the appropriate county official, and the county auditor shall enter on the duplicate the taxes that would have been due for those years that the property escaped taxation, with an added ten percent penalty.

**SECTION 12‑4‑755.** Repealed by 2000 Act No. 399, Section 3(O), eff August 17, 2000.

Former Section 12‑4‑755 was entitled “Appeal of property tax exemption denial; procedures” and was derived from 1994 Act No. 516, Section 23.

**SECTION 12‑4‑770.** Repealed by 2006 Act No. 386, Section 30, eff June 14, 2006.

**SECTION 12‑4‑780.** Redesignated as Section 12‑4‑395 by 2006 Act No. 386, Section 3, eff June 14, 2006.