

REPORT OF THE SALES AND INCOME TAX SUBCOMMITTEE

(Allison, Simrill, G.M. Smith, Hosey & Stavrinakis- Staff Contact: Katie Owen)

HOUSE BILL 3767

H. 3767 -- Reps. Hixon, J.R. Smith, Quinn, Southard, Huggins, Bowen, Stavrinakis, Sabb, Allison, Atwater, Ballentine, Barfield, Chumley, Clyburn, Cole, Daning, Dillard, Erickson, Felder, Finlay, George, Goldfinch, Hamilton, Harrell, Hayes, Hiott, Horne, Hosey, Jefferson, Kennedy, Loftis, Long, Lowe, Lucas, Merrill, V.S. Moss, Norman, Ott, Owens, Pope, Putnam, Riley, Rivers, Rutherford, Simrill, Skelton, Sottile, Spires, Tallon, Taylor, Toole, Wells and Wood: A BILL TO AMEND SECTION 12-36-920, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TWO PERCENT STATE SALES TAX IMPOSED ON ACCOMMODATIONS, SO AS TO PROVIDE THAT THE TAX DOES NOT APPLY TO GROSS PROCEEDS FROM RENTALS RECEIVED BY PERSONS RENTING THEIR PERSONAL RESIDENCE FOR FEWER THAN FIFTEEN DAYS TOTAL IN A YEAR AND IF THE GROSS PROCEEDS OF THE RENTAL INCOME ARE EXCLUDED FROM FEDERAL TAXABLE INCOME PURSUANT TO THE PROVISIONS OF SECTION 280A(g) OF THE INTERNAL REVENUE CODE OF 1986.

Summary of Bill:

This bill provides that the two percent state sales tax imposed on accommodations does not apply to gross proceeds from rentals received by persons renting their personal residence for fewer than fifteen days total in a year if the gross proceeds of the rental income are excluded from federal taxable income.

Introduced: 02/06/2013

Received by Ways and Means: 02/06/2013

Estimated Fiscal Impact:

PENDING

Subcommittee Recommendation:

Favorable

Full Committee Recommendation:

Pending

Other Notes/Comments:

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Statement of Estimated State Revenue Impact

Date: April 16, 2013

Bill Number: H.B. 3767

Authors: Hixon, J.R. Smith, Quinn, Southard, Huggins, *et. al.*

Committee Requesting Impact: House Ways & Means Committee

Bill Summary

A bill to amend Section 12-36-920, as amended, of the Code of Laws of South Carolina, 1976, relating to the two percent state sales tax imposed on accommodations, so as to provide that the tax does not apply to gross proceeds from rentals received by persons renting their personal residence for fewer than fifteen days total in a year and if the gross proceeds of the rental income are excluded from federal taxable income pursuant to the provisions of Section 280a(g) of the Internal Revenue Code of 1986.

REVENUE IMPACT ^{1/}

This bill is expected to decrease state tax revenue by an estimated \$2,062,270 in FY2013-14. Of this amount, General Fund sales and use tax revenue would be decreased by \$1,178,440, the Education Improvement Fund would be decreased by \$294,610, and state (2%) accommodations tax revenue would be decreased by \$589,220 in FY2013-14.

Explanation

Currently, taxpayers that rent their private residences for less than fifteen days during a taxable year are not required to remit a seven percent state accommodations tax on the gross proceeds to the state. This bill would amend Section 12-36-920(A) to disallow a sales and use tax on the gross proceeds from the rental wholly excluded from the gross income of the taxpayer pursuant to Internal Revenue Code Section 280A(g). Specifically, IRC Section 280A(g)(2) is a special rule for certain rental use of real property, and states that if a dwelling unit is used during the taxable year by the taxpayer as a residence and such dwelling unit is actually rented for less than 15 days during the taxable year, then the income derived from such use for the taxable year shall not be included in the gross income of such taxpayer. Because South Carolina conforms to the federal tax code pursuant to Section 12-6-40, this special rule would apply under state tax law. This bill, therefore, would disallow a state accommodations tax of seven percent to be levied on the gross rental income of those taxpayers that rent their private residences for less than 15 days during a taxable year.

A special event such as the Masters Golf Tournament held each year during the first full week in April at The Augusta National Golf Club in Augusta, Georgia would qualify. Each year, hundreds of private residences in the local area are rented to golf fans from around the world. According to the Masters Housing Bureau, operated by the local Chamber of Commerce, contains a listing of area homes for rent ranging from \$2,000 for an apartment to over \$15,000 for a corporate house. An average home with 4 bedrooms and 3 bathrooms commands \$8,500 per week. Of those listings with the Masters Housing Bureau, 20 percent of the listings were for home rentals in South Carolina. Surveys of several other well

Statement of Estimated State Revenue Impact

organized home rental listing services were comprised of 14 to 20 percent of advertised homes being located in South Carolina. The rental prices of homes in South Carolina were generally lower than the rental prices of homes in the Georgia area. The South Carolina rental rates are discounted for the time value of driving to and from Augusta, the price of gasoline, and other associated costs.

Our survey of private residences for rent from several professional real estate listing service during the Masters Golf Tournament week, revealed 272 private residences available for rent in South Carolina. Most of these homes were concentrated in the North Augusta and Aiken communities with others scattered along the state's border with Georgia. Multiplying 272 private residential homes in South Carolina by an average price of \$8,000 per home and applying a seven percent state accommodations tax rate yields a decrease in state tax revenue of an estimated \$152,320 in FY2013-14. Because not every private residence that wishes to rent a private residence during a special event lists a property with a professional real estate listing service, we may expect at least twice as many additional listings for smaller accommodations such as apartments, condos, and townhouses to be rented from listings in newspapers, social media, internet, and by word-of-mouth advertising. Multiplying an estimated 544 smaller residences in South Carolina by an average price of \$2,500 per residence and applying a seven percent state accommodations tax rate yields a decrease in state tax revenue of an estimated \$95,200 in FY2013-14.

Also, each year a large number of homeowners rent private residences along the coast for vacationers to enjoy our state's beautiful beaches. After a survey of several realtors along the coast, we have been able to identify 5,185 private homes that are available for rent during the upcoming beach season. The weekly rental rates vary between \$1,295 to several thousand dollars depending on location. Multiplying an estimated 5,185 private homes by an average weekly rental rate of \$2,500 and doubling this amount to obtain fourteen days of rent, and applying an accommodations tax rate of seven percent, yields a decrease in state tax revenue of an estimated \$1,814,750 in FY2013-14.

Collectively, this bill would decrease state tax revenue by an estimated \$2,062,270 in FY2013-14. Of this amount, General Fund sales and use tax revenue would be decreased by \$1,178,440, the Education Improvement Fund would be decreased by \$294,610, and state (2%) accommodations tax revenue would be decreased by \$589,220 in FY2013-14.



Frank A. Rainwater
Chief Economist

Analyst: Martin

^{1/} This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact of Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

South Carolina General Assembly
120th Session, 2013-2014

H. 3767

STATUS INFORMATION

General Bill

Sponsors: Reps. Hixon, J.R. Smith, Quinn, Southard, Huggins, Bowen, Stavrinakis, Sabb, Allison, Atwater, Ballentine, Barfield, Chumley, Clyburn, Cole, Daning, Dillard, Erickson, Felder, Finlay, George, Goldfinch, Hamilton, Harrell, Hayes, Hiott, Horne, Hosey, Jefferson, Kennedy, Loftis, Long, Lowe, Lucas, Merrill, V.S. Moss, Norman, Ott, Owens, Pope, Putnam, Riley, Rivers, Rutherford, Simrill, Skelton, Sottile, Spires, Tallon, Taylor, Toole, Wells and Wood
Document Path: I:\council\bill\bbs\10868htc13.docx

Introduced in the House on March 6, 2013

Currently residing in the House Committee on **Ways and Means**

Summary: Accommodation tax

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
3/6/2013	House	Introduced and read first time (House Journal-page 73)
3/6/2013	House	Referred to Committee on Ways and Means (House Journal-page 73)

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VERSIONS OF THIS BILL

[3/6/2013](#)

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8
9 **A BILL**

10
11 TO AMEND SECTION 12-36-920, AS AMENDED, CODE OF
12 LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE
13 TWO PERCENT STATE SALES TAX IMPOSED ON
14 ACCOMMODATIONS, SO AS TO PROVIDE THAT THE TAX
15 DOES NOT APPLY TO GROSS PROCEEDS FROM RENTALS
16 RECEIVED BY PERSONS RENTING THEIR PERSONAL
17 RESIDENCE FOR FEWER THAN FIFTEEN DAYS TOTAL IN
18 A YEAR AND IF THE GROSS PROCEEDS OF THE RENTAL
19 INCOME ARE EXCLUDED FROM FEDERAL TAXABLE
20 INCOME PURSUANT TO THE PROVISIONS OF SECTION
21 280A(g) OF THE INTERNAL REVENUE CODE OF 1986.

22
23 Be it enacted by the General Assembly of the State of South
24 Carolina:

25
26 SECTION 1. Section 12-36-920(A) of the 1976 Code, as last
27 amended by Act 56 of 2005, is further amended to read:

28
29 “(A) A sales tax equal to seven percent is imposed on the gross
30 proceeds derived from the rental or charges for any rooms,
31 campground spaces, lodgings, or sleeping accommodations
32 furnished to transients by any hotel, inn, tourist court, tourist camp,
33 motel, campground, residence, or any place in which rooms,
34 lodgings, or sleeping accommodations are furnished to transients
35 for a consideration. This tax does not apply:

36 (1) where the facilities consist of less than six sleeping
37 rooms, contained on the same premises, which is used as the
38 individual’s place of abode; or

39 (2) to gross proceeds from rental income wholly excluded
40 from the gross income of the taxpayer pursuant to Internal
41 Revenue Code Section 280A(g) as that code is defined in Section
42 12-6-40(A).

1 The gross proceeds derived from the lease or rental of sleeping
2 accommodations supplied to the same person for a period of ninety
3 continuous days are not considered proceeds from transients. The
4 tax imposed by this subsection (A) does not apply to additional
5 guest charges as defined in subsection (B).”

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

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