

"THE BELOW CONSTITUTED SUMMARY IS PREPARED BY THE STAFF OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AND IS NOT THE EXPRESSION OF THE LEGISLATION'S SPONSOR(S) OR THE HOUSE OF REPRESENTATIVES. IT IS STRICTLY FOR THE INTERNAL USE AND BENEFIT OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AND IS NOT TO BE CONSTRUED BY A COURT OF LAW AS AN EXPRESSION OF LEGISLATIVE INTENT".

## **REPORT OF THE LEGISLATIVE SUBCOMMITTEE**

**Clemmons, Bales, Smith, Herbkersman**

**Blythe Littlefield, Staff**

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### **SENATE BILL 250**

### **Annual Tax Conformity**

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S. 250 -- Senators Leatherman, Setzler and Alexander: 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 2016 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.

***Summary of Bill:***

Requires the Department of Revenue to administer any tax form or instruction changes so as to conform South Carolina taxes to the Internal Revenue Code through December 31, 2016.

***Estimated Fiscal Impact:***

These activities are a continuation of existing agency responsibilities and will not have an expenditure impact on the general fund, federal fund, or other funds.

***Subcommittee Recommendation:***

Passed Favorably



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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**Bill Number:** S. 250    Introduced on January 12, 2017  
**Author:** Leatherman  
**Subject:** Internal Revenue Code Conformity  
**Requestor:** Senate Finance  
**RFA Analyst(s):** Shuford  
**Impact Date:** January 17, 2017

**Estimate of Fiscal Impact**

|                                  | FY 2017-18 | FY 2018-19 |
|----------------------------------|------------|------------|
| <b>State Expenditure</b>         |            |            |
| General Fund                     | \$0        | \$0        |
| Other and Federal                | \$0        | \$0        |
| Full-Time Equivalent Position(s) | 0.00       | 0.00       |
| <b>State Revenue</b>             |            |            |
| General Fund                     | \$0        | \$0        |
| Other and Federal                | \$0        | \$0        |
| <b>Local Expenditure</b>         | \$0        | \$0        |
| <b>Local Revenue</b>             | \$0        | \$0        |

**Fiscal Impact Summary**

This bill will not have an expenditure impact on the General Fund, Federal Funds, or Other Funds. In addition, we expect that updating IRC conformity through the end of 2016 will have no revenue impact on General Fund income tax revenue in FY 2017-18

**Explanation of Fiscal Impact**

**Introduced on January 12, 2017**

**State Expenditure**

Senate Bill 250 requires the Department of Revenue to administer any tax form or instruction changes from updating South Carolina's conformity to the Internal Revenue Code (IRC) through December 31, 2016. 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 Internal Revenue Code (IRC) through December 31, 2016. Research by the Department of Revenue reports that of the five federal tax acts passed in 2016, only two provisions within these five acts may affect South Carolina income tax revenue.

The first provision is contained in the U.S. Appreciation for Olympians and Paralympians Act of 2016, which creates a new exclusion from taxable income for the value of the medals awarded to U.S. Olympic or Paralympic athletes and the cash prizes given by the U.S. Olympic Committee.

The second provision requires the Department of Defense to ensure that amounts are not withheld for tax purposes from severance payments to veterans with combat-related injuries when such payments are not considered gross income under the IRC. This provision is enacted as part of the Combat-Injured Veterans Tax Fairness Act.

The U.S. Joint Committee on Taxation estimates that these two provisions would reduce federal tax revenue by a negligible amount in tax year 2017. Therefore, we expect that updating IRC conformity through the end of 2016 will have no revenue impact on General Fund income tax revenue in FY 2017-18.

In addition, this bill proactively adopts for South Carolina certain expired provisions of the federal code that are extended, but not otherwise amended by congressional enactment in 2017. This contingency is required since the U.S. Congress allowed thirty-seven federal exemptions to expire at the end of 2016. Adopting these exemptions retroactively is still under consideration by Congress, which has occurred previously in recent years. Of these thirty-seven exemptions, twelve potentially impact South Carolina taxable income and are noted in the table below.

If Congress does not reinstate these provisions, the resulting increase in South Carolina taxable income would increase General Fund income tax revenue by \$11,790,000 in FY 2017-18. This revenue impact would occur whether or not the General Assembly enacts legislation to update the IRC conformity through December 31, 2016. The table below provides a brief summary of the twelve provisions including their expected \$11,790,000 revenue impact on General Fund income tax revenue in FY 2017-18.

These temporary provisions have generally been in the IRC for years and are routinely extended as they were most recently extended in the Protecting Americans from Tax Hikes Act of 2015. While Congress is expected to address these expired provisions at some point in 2017, there is no certainty. Should Congress fail to reinstate these provisions in 2017, South Carolina General Fund income tax revenue will increase, even if South Carolina enacts conformity legislation.

In November 2016 when the Board of Economic Advisors (BEA) set the initial forecast for FY 2017-18, 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.

At this point, we expect these expired provisions will be reinstated; therefore, we anticipate no revenue impact from federal actions that retroactively reinstate or extend the expired provisions. In other words, if Congress reauthorizes or extends these items in 2017 with no amendments, we anticipate no impact on South Carolina income tax revenue. The BEA will monitor this situation and any adjustment to the FY 2017-18 revenue forecast will be addressed later in the legislative session based on any federal or state legislation.

#### **Local Expenditure and Revenue**

N/A

|    | <b>Expired 2016 Federal Tax Provisions Under Consideration by Congress</b>   | <b>First Enacted</b> | <b>Potential Impact</b> |
|----|--|----------------------|-------------------------|
| 1  | Medical expense deduction floor of 7.5% of adjusted gross income for individuals age 65 and older  | 2010                 | \$ 4,819,000            |
| 2  | Deduction for qualified tuition and related expenses   | 1978                 | \$ 2,768,000            |
| 3  | Discharge of indebtedness on principal residence excluded from gross income of individuals   | 2007                 | \$ 2,050,000            |
| 4  | Premiums for mortgage insurance deductible as interest that is qualified residential interest  | 2006                 | \$ 1,070,000            |
| 5  | Special rule for sales or dispositions to implement Federal Energy Regulatory Commission or state electric restructuring policy          | 2004                 | \$ 406,000              |
| 6  | Extension of energy efficient commercial buildings deduction   | 2006                 | \$ 246,000              |
| 7  | 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              |
| 8  | Empowerment zone tax incentives  | 1993                 | \$ 76,000               |
| 9  | Seven-year recovery period for certain motorsports racing facilities   | 2004                 | \$ 58,000               |
| 10 | Special expensing rules for certain film and television productions  | 2004                 | \$ 39,000               |
| 11 | Election to expense advanced mine safety equipment   | 2006                 | \$ 32,000               |
| 12 | Five-year cost recovery for certain energy property  | 2005                 | \$ 11,000               |
|    | <b>Total</b>   |                      | \$ 11,790,000           |



Frank A. Rainwater, Executive Director

**South Carolina General Assembly**  
122nd Session, 2017-2018

**S. 250**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Leatherman, Setzler and Alexander

Document Path: I:\council\bill\bills\bbm\9578dg17.docx

Introduced in the Senate on January 12, 2017

Introduced in the House on February 1, 2017

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

Summary: Internal Revenue Code

**HISTORY OF LEGISLATIVE ACTIONS**

| <u>Date</u> | <u>Body</u> | <u>Action Description with journal page number</u>                                    |
|-------------|-------------|---|
| 1/12/2017   | Senate      | Introduced and read first time ( <a href="#">Senate Journal-page 1</a> )              |
| 1/12/2017   | Senate      | Referred to Committee on <b>Finance</b> ( <a href="#">Senate Journal-page 1</a> )     |
| 1/24/2017   | Senate      | Committee report: Favorable <b>Finance</b> ( <a href="#">Senate Journal-page 31</a> ) |
| 1/26/2017   | Senate      | Read second time ( <a href="#">Senate Journal-page 14</a> )                           |
| 1/26/2017   | Senate      | Roll call Ayes-41 Nays-0 ( <a href="#">Senate Journal-page 14</a> )                   |
| 1/31/2017   | Senate      | Read third time and sent to House ( <a href="#">Senate Journal-page 30</a> )          |
| 2/1/2017    | House       | Introduced and read first time  |
| 2/1/2017    | House       | Referred to Committee on <b>Ways and Means</b>  |

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**VERSIONS OF THIS BILL**

[1/12/2017](#)

[1/24/2017](#)

1 ~~Indicates Matter Stricken~~

2 Indicates New Matter

3

4 COMMITTEE REPORT

5 January 24, 2017

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## S. 250

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9 Introduced by Senators Leatherman, Setzler and Alexander

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11 S. Printed 1/24/17--S.

12 Read the first time January 12, 2017.

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### **THE COMMITTEE ON FINANCE**

16 To whom was referred a Bill (S. 250) to amend Section 12-6-40,  
17 as amended, Code of Laws of South Carolina, 1976, relating to the  
18 application of the Internal Revenue Code, etc., respectfully

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#### **REPORT:**

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

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23 HUGH K. LEATHERMAN, SR. for Committee.

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### **STATEMENT OF ESTIMATED FISCAL IMPACT**

27 **Explanation of Fiscal Impact**

28 **Introduced on January 12, 2017**

29 **State Expenditure**

30 Senate Bill 250 requires the Department of Revenue to administer  
31 any tax form or instruction changes from updating South Carolina's  
32 conformity to the Internal Revenue Code (IRC) through December  
33 31, 2016. These activities are a continuation of existing agency  
34 responsibilities and will not have an expenditure impact on the  
35 general fund, federal funds, or other funds.

36 **State Revenue**

37 This bill updates South Carolina's conformity to the Internal  
38 Revenue Code (IRC) through December 31, 2016. Research by the  
39 Department of Revenue reports that of the five federal tax acts  
40 passed in 2016, only two provisions within these five acts may affect  
41 South Carolina income tax revenue.

1 The first provision is contained in the U.S. Appreciation for  
2 Olympians and Paralympians Act of 2016, which creates a new  
3 exclusion from taxable income for the value of the medals awarded  
4 to U.S. Olympic or Paralympic athletes and the cash prizes given by  
5 the U.S. Olympic Committee.

6 The second provision requires the Department of Defense to  
7 ensure that amounts are not withheld for tax purposes from  
8 severance payments to veterans with combat-related injuries when  
9 such payments are not considered gross income under the IRC. This  
10 provision is enacted as part of the Combat-Injured Veterans Tax  
11 Fairness Act.

12 The U.S. Joint Committee on Taxation estimates that these two  
13 provisions would reduce federal tax revenue by a negligible amount  
14 in tax year 2017. Therefore, we expect that updating IRC  
15 conformity through the end of 2016 will have no revenue impact on  
16 general fund income tax revenue in FY 2017-18.

17 In addition, this bill proactively adopts for South Carolina certain  
18 expired provisions of the federal code that are extended, but not  
19 otherwise amended by congressional enactment in 2017. This  
20 contingency is required since the U.S. Congress allowed thirty-  
21 seven federal exemptions to expire at the end of 2016. Adopting  
22 these exemptions retroactively is still under consideration by  
23 Congress, which has occurred previously in recent years. Of these  
24 thirty-seven exemptions, twelve potentially impact South Carolina  
25 taxable income and are noted in the table below.

26 If Congress does not reinstate these provisions, the resulting  
27 increase in South Carolina taxable income would increase general  
28 fund income tax revenue by \$11,790,000 in FY 2017-18. This  
29 revenue impact would occur whether or not the General Assembly  
30 enacts legislation to update the IRC conformity through December  
31 31, 2016. The table below provides a brief summary of the twelve  
32 provisions including their expected \$11,790,000 revenue impact on  
33 general fund income tax revenue in FY 2017-18.

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35 years and are routinely extended as they were most recently  
36 extended in the Protecting Americans from Tax Hikes Act of 2015.  
37 While Congress is expected to address these expired provisions at  
38 some point in 2017, there is no certainty. Should Congress fail to  
39 reinstate these provisions in 2017, South Carolina general fund  
40 income tax revenue will increase, even if South Carolina enacts  
41 conformity legislation.

42 In November 2016 when the Board of Economic Advisors (BEA)  
43 set the initial forecast for FY 2017-18, the expectation was that

1 Congress would extend these expiring federal tax provisions. The  
 2 BEA general fund forecast included the revenue impact of extending  
 3 these provisions as part of the income tax base since most of these  
 4 provisions have been in effect for many years.

5 At this point, we expect these expired provisions will be  
 6 reinstated; therefore, we anticipate no revenue impact from federal  
 7 actions that retroactively reinstate or extend the expired provisions.  
 8 In other words, if Congress reauthorizes or extends these items in  
 9 2017 with no amendments, we anticipate no impact on South  
 10 Carolina income tax revenue. The BEA will monitor this situation  
 11 and any adjustment to the FY 2017-18 revenue forecast will be  
 12 addressed later in the legislative session based on any federal or state  
 13 legislation.

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|   | <b>Expired 2016 Federal Tax Provisions Under Consideration by Congress</b>  | <b>First Enacted</b> | <b>Potential Impact</b> |
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| 3 | Discharge of indebtedness on principal residence excluded from gross income of individuals                                      | 2007                 | \$ 2,050,000            |
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|    | <b>Total</b>   |      | \$ 11,790,000 |

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2 Frank A. Rainwater, Executive Director  
3 Revenue and Fiscal Affairs Office  
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**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 2016 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 160 of 2016, is further amended to read:

“(a) Except as otherwise provided, ‘Internal Revenue Code’ means the Internal Revenue Code of 1986, as amended through December 31, ~~2015~~ 2016, 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, ~~2015~~ 2016, are extended, but otherwise not amended, by congressional enactment during ~~2016~~ 2017, 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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