~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 31, 2009

**H. 3722**

Introduced by Reps. Kirsh and White

S. Printed 3/31/09--H.

Read the first time March 24, 2009.

**THE COMMITTEE ON WAYS AND MEANS**

To whom was referred a Bill (H. 3722) to amend the Code of Laws of South Carolina, 1976, by adding Section 12‑6‑1145 so as to provide for determination of treatment of gains and losses apportioned, etc., respectfully

**REPORT:**

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

Amend the bill, as and if amended, SECTION 13, pages 11 and 12, and SECTION 29, page 20, by deleting SECTIONS 13 and 29 in their entirety.

Amend the bill, further, by adding an appropriately numbered SECTION to read:

/ SECTION \_\_\_. Section 12‑36‑2120 of the 1976 Code, as amended by Act 338 of 2008, is amended by adding an appropriately numbered item to read:

“(\_\_\_) Machinery and equipment including lighting, filming and computer equipment, building and other raw materials used in test specimens, and electricity and electrical transformers and substations purchased for use in the operation of a facility placed in service on or after July 2, 2009 owned by an organization which qualifies as a tax exempt organization pursuant to the Internal Revenue Code Section 501(c)(3) when the facility is principally used for researching and testing the impact of such natural hazards as wind, fire, water, earthquake, and hail on building materials and construction methods used in residential, commercial, and agricultural buildings. To qualify for this exemption, the taxpayer shall notify the department of its intent to qualify and shall invest at least twenty million dollars in real or personal property at a single site in this State over a three‑year period beginning on the date provided by the taxpayer to the department in its notices. After the taxpayer notifies the department of its intent to qualify and use this exemption, the department shall issue an appropriate exemption certificate to the taxpayer to be used for qualifying purposes. Within six months of the third anniversary of the taxpayer’s first use of the exemption, the taxpayer shall notify the department in writing that it has met the twenty million dollar investment requirement or that it has not met the twenty million dollar investment requirement. The department may assess any tax due on the machinery and equipment and all other materials purchased tax‑free pursuant to this item but due the State as a result of the taxpayer’s failure to meet the twenty million dollar investment requirement. The running of the periods of limitations for assessment of taxes provided in Section 12‑54‑85 is suspended for the time period beginning with notice to the department before the taxpayer uses the exemption and ending with notice to the department that the taxpayer either has met or has not met the twenty million dollar investment requirement. /

Amend the bill, further, by adding an appropriately numbered SECTION to read:

/ SECTION \_\_. Section 12‑2‑25(B) of the 1976 Code is amended to read:

“(B) For all South Carolina tax purposes:

(1) a single‑member limited liability company, which is not taxed for South Carolina income tax purposes as a corporation, is not regarded as an entity separate from its owner;

(2) a ‘qualified subchapter S subsidiary’, as defined in Section 1361(b)(3)(B) of the Internal Revenue Code, is not regarded as an entity separate from the “S’ corporation that owns the stock of the qualified subchapter ‘S’ subsidiary; and

(3) a grantor trust, to the extent that it is a grantor trust, is not regarded as an entity separate from its grantor.” /

Renumber sections to conform.

Amend title to conform.

DANIEL T. COOPER for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑6‑1145 SO AS TO PROVIDE FOR DETERMINATION OF TREATMENT OF GAINS AND LOSSES APPORTIONED TO THIS STATE BY THE INTERNAL REVENUE CODE STANDARDS; BY ADDING SECTION 12‑36‑2575 SO AS TO PROVIDE FOR FILING OF A RETURN FOR EACH SALES OR USE TAX LIABILITY PERIOD EVEN IF NO TAX LIABILITY ACCRUES FOR THAT PERIOD; TO AMEND SECTION 12‑4‑320, AS AMENDED, RELATING TO POWERS AND DUTIES OF THE DEPARTMENT OF REVENUE, SO AS TO PROVIDE FOR ADOPTION OF FEDERAL RELIEF FOR CERTAIN ADVERSELY AFFECTED TAXPAYERS; TO AMEND SECTION 12‑6‑590, AS AMENDED, RELATING TO TREATMENT OF “S” CORPORATIONS FOR TAX PURPOSES, SO AS TO INCLUDE ADDITIONAL REFERENCES TO THE INTERNAL REVENUE CODE FOR SIMILAR STATE TREATMENT; TO AMEND SECTION 12‑6‑2250, AS AMENDED, RELATING TO THE APPORTIONMENT OF INCOME DERIVED BY A TAXPAYER TO THE TAXPAYER’S CONDUCT OF BUSINESS IN THIS STATE, SO AS TO CHANGE THE WORD “ALLOCATED” TO “APPORTIONED”; TO AMEND SECTION 12‑6‑2295, RELATING TO INCLUSIONS AND EXCLUSIONS IN CONNECTION WITH THE TERMS “SALES” AND “GROSS RECEIPTS” AS USED IN THE APPORTIONMENT OF INCOME TO THIS STATE FOR STATE INCOME TAX PURPOSES, SO AS TO FURTHER SPECIFY RENTAL AND SALES INCOME FROM TANGIBLE AND INTANGIBLE, REAL AND PERSONAL PROPERTY IN THE ORDINARY COURSE OF THE TAXPAYER’S TRADE OR BUSINESS; TO AMEND SECTION 12‑6‑3360, AS AMENDED, RELATING TO THE JOB TAX CREDIT AGAINST THE STATE INCOME TAX, SO AS TO DELETE A REFERENCE TO GENERAL CONTRACTORS IN CONNECTION WITH THE TERM “CORPORATE OFFICE”; TO AMEND SECTION 12‑6‑3376, RELATING TO A CREDIT AGAINST THE STATE INCOME TAX FOR THE PURCHASE OR LEASE OF A PLUG‑IN HYBRID VEHICLE, SO AS TO REQUIRE THAT THE CREDIT BE THE FIRST CLAIMED FOR THAT VEHICLE, TO PROVIDE FOR REGULATIONS PROMULGATED BY THE STATE ENERGY OFFICE, TO FURTHER PROVIDE FOR CLAIMING THE CAPPED CREDIT, AND TO PROVIDE FOR THE EFFECT OF A REPEAL OF THE CAPS ON THE CREDIT; TO AMEND SECTION 12‑6‑3377, RELATING TO THE ALTERNATIVE MOTOR VEHICLE FUEL CREDIT AGAINST THE STATE INCOME TAX, SO AS TO FURTHER PROVIDE FOR THE CALCULATION OF THE CREDIT FOR BUSINESS USE AND TO DELETE A PROVISION DEEMING THE FEDERAL TAX TREATMENT OF THE ALTERNATIVE FUEL CREDIT TO BE PERMANENT; TO AMEND SECTION 12‑6‑3535, AS AMENDED, RELATING TO A CREDIT AGAINST THE STATE INCOME TAX FOR REHABILITATION OF A HISTORIC STRUCTURE, SO AS TO INCLUDE A CREDIT AGAINST THE CORPORATE LICENSE FEES; TO AMEND SECTION 12‑6‑3550, AS AMENDED, RELATING TO THE VOLUNTARY CLEANUP INCOME TAX CREDIT, SO AS TO CLARIFY THAT THE CREDIT IS ONE AGAINST THE STATE INCOME TAX; TO AMEND SECTION 12‑6‑3585, AS AMENDED, RELATING TO THE INDUSTRY PARTNERSHIP FUND CREDIT AGAINST STATE TAXES, SO AS TO ALLOW THE CREDIT TO BE USED AGAINST THE TAXPAYER’S APPLICABLE STATE INCOME TAX, BANK TAX, INSURANCE PREMIUM TAX, OR LICENSE FEE LIABILITY; TO AMEND SECTION 12‑6‑3610, AS AMENDED, RELATING TO INCOME TAX CREDIT FOR PROPERTY USED FOR DISTRIBUTION OR DISPENSING OF RENEWABLE FUEL, SO AS TO DELETE CERTAIN TRANSITIONAL PROVISIONS; TO AMEND SECTION 12‑6‑3630, RELATING TO A CREDIT AGAINST CERTAIN STATE TAXES FOR A CONTRIBUTION TO THE SOUTH CAROLINA HYDROGEN INFRASTRUCTURE DEVELOPMENT FUND, SO AS TO FURTHER PROVIDE FOR CLAIMING THE CREDIT; TO AMEND SECTION 12‑8‑1530, RELATING TO QUARTERLY RETURNS OF WITHHELD TAX, SO AS TO REQUIRE RETURNS EVEN IN PERIODS WHEN NO TAX HAS BEEN WITHHELD; TO AMEND SECTION 12‑8‑1550, RELATING TO STATEMENTS REQUIRED TO BE FILED WITH THE DEPARTMENT OF REVENUE, SO AS TO PROVIDE FOR PRESCRIPTION BY THE DEPARTMENT OF EITHER ELECTRONIC OR MAGNETIC MEDIA METHOD FOR SUBMISSION OF CERTAIN INFORMATION; TO AMEND SECTION 12‑10‑80, AS AMENDED, RELATING TO THE JOB DEVELOPMENT TAX CREDIT, SO AS TO MAKE TECHNICAL CORRECTIONS AND ADD A CROSS REFERENCE; TO AMEND SECTION 12‑20‑100, RELATING TO LICENSE TAX ON UTILITIES AND ELECTRIC COOPERATIVES, SO AS TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 12‑21‑2575, RELATING TO METHODS OF ACCOUNTING FOR ADMISSIONS OTHER THAN TICKETS, SO AS TO PROVIDE THAT THE TICKETS BE COLLECTED AND RETAINED TO ACCOUNT FOR ADMISSIONS; TO AMEND SECTION 12‑36‑910, AS AMENDED, RELATING TO THE FIVE PERCENT SALES TAX ON THE PROCEEDS OF THE SALE OF TANGIBLE PERSONAL PROPERTY, SO AS TO DELETE A REDUNDANCY AS TO THE TAX ON PROCEEDS FROM THE SALE OF A WARRANTY, MAINTENANCE, OR SIMILAR CONTRACT FOR TANGIBLE PERSONAL PROPERTY; TO AMEND SECTION 12‑36‑2120, AS AMENDED, RELATING TO EXEMPTIONS FROM THE STATE’S SALES TAX, SO AS TO SPECIFY NOTIFICATION REQUIREMENTS FOR CLAIMING THE EXEMPTION ON THE CONSTRUCTION MATERIALS USED IN CERTAIN SINGLE MANUFACTURING AND DISTRIBUTION FACILITIES AND TO PROVIDE FOR ASSESSMENT OF ANY TAX DUE, TO SPECIFY THAT THE EXEMPTION IN CONNECTION WITH THE SALE OF CURRENCY APPLIES TO CURRENCY THAT IS LEGAL TENDER, AND TO CLARIFY THE EXEMPTION AS TO DURABLE MEDICAL EQUIPMENT AND RELATED SUPPLIES; TO AMEND SECTION 12‑37‑90, RELATING TO DUTIES OF A FULL‑TIME COUNTY ASSESSOR, SO AS TO DELETE THE AUTHORITY OF THE DEPARTMENT OF REVENUE TO ALTER A VALUE OF REAL PROPERTY AS SET BY THE ASSESSOR; TO AMEND SECTION 12‑37‑220, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO PROVIDE FOR EXEMPTION OF THE REAL PROPERTY OF DEFINED TAX EXEMPT ORGANIZATIONS AND TO CORRECT A CROSS REFERENCE; TO AMEND SECTION 12‑44‑30, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF THE FEE IN LIEU OF TAX SIMPLIFICATION ACT, SO AS TO CORRECT A CROSS REFERENCE IN THE DEFINITION OF “SPONSOR”; TO AMEND SECTION 12‑54‑70, AS AMENDED, RELATING TO EXTENSION OF TIME FOR FILING RETURNS OR PAYING TAX, SO AS TO FURTHER DEFINE THE LENGTH OF THE EXTENSION; TO AMEND SECTION 12‑54‑85, AS AMENDED, RELATING TO TIME LIMITATION FOR ASSESSMENT OF TAXES OR FEES BY THE DEPARTMENT OF REVENUE, SO AS TO PROVIDE FOR THE INSTANCE OF A TAXPAYER LACKING A VALID BUSINESS PURPOSE; TO AMEND SECTION 12‑54‑240, AS AMENDED, RELATING TO DISCLOSURE OF RECORDS AND REPORTS FILED WITH THE DEPARTMENT OF REVENUE, SO AS TO REQUIRE THAT THE DISCLOSURE MUST BE WILFUL TO GIVE RISE TO THE PENALTIES; TO AMEND SECTION 12‑63‑20, AS AMENDED, RELATING TO THE ENERGY FREEDOM AND RURAL DEVELOPMENT ACT, SO AS TO DEFINE “BIODIESEL” FOR THAT PURPOSE; TO AMEND SECTION 30‑2‑320, RELATING TO DISCLOSURE OF IDENTIFYING INFORMATION IN CONNECTION WITH PUBLIC RECORDS, AND SECTION 37‑20‑180, RELATING TO DISCLOSURE OF IDENTIFYING INFORMATION IN CONNECTION WITH PUBLICATION OF A SOCIAL SECURITY NUMBER, BOTH SO AS TO ALLOW DISCLOSURE BY AND TO THE DEPARTMENT OF REVENUE FOR THE PURPOSE OF CARRYING OUT ITS DUTIES AND RESPONSIBILITIES; TO AMEND SECTION 44‑43‑1360, AS AMENDED, RELATING TO ADMINISTRATION OF DONATE LIFE SOUTH CAROLINA, SO AS TO CORRECT A CROSS REFERENCE; AND TO REPEAL SECTION 12‑20‑175, RELATING TO REDUCTION OF LICENSE FEES DUE TO TAX CREDITS AND SECTION 12‑36‑30, RELATING TO THE DEFINITION OF “PERSON” FOR PURPOSES OF THE SALES AND USE TAX.

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

SECTION 1.A. Article 9, Chapter 6, Title 12 of the 1976 Code is amended by adding:

“Section 12‑6‑1145. The determination of whether gains and losses are treated as ordinary or capital under Internal Revenue Code Section 1231 for federal income tax purposes will determine whether the Section 1231 gains and losses allocated or apportioned to South Carolina will be treated as long term capital gains and losses, or ordinary gains and losses.”

B. This section takes effect upon approval by the Governor and applies to tax years beginning after December 31, 2008.

SECTION 2. Article 25, Chapter 36, Title 12 of the 1976 Code is amended by adding:

“Section 12‑36‑2575. (A) A person who has been issued a retail license pursuant to Section 12‑36‑510 shall file a return for each filing period as required pursuant to this article even if the person does not have a sales or use tax liability or use tax remittance responsibility for a filing period. For a filing period in which the person does not have a sales or use tax liability or use tax remittance responsibility, the return still must be completed in its entirety as required in Section 12‑36‑2570(B).

(B) A person liable for the use tax pursuant to Section 12‑36‑1330(A) who has obtained a Purchaser’s Certificate of Registration from the department must file a return for each filing period as required pursuant to this article even if the person does not have a use tax liability for a filing period. For a filing period in which the person does not have a use tax liability, the return still must be completed in its entirety as required in Section 12‑36‑2570(B).”

SECTION 3. Section 12‑4‑320(6) of the 1976 Code is amended to read:

“(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. The department, in its discretion, automatically may adopt federal special filing and tax payment relief provisions allowed for adversely affected taxpayers.”

SECTION 4.A. Section 12‑6‑590 of the 1976 Code, as last amended by Act 116 of 2007, is further amended by adding at the end:

“(C) If Internal Revenue Code Section 1374 (Tax Imposed on Certain Built‑In Gains and Capital Gains) or 1375 (Tax Imposed on Certain Passive Investment Income) imposes a federal income tax, a South Carolina tax is similarly imposed using the rates set forth in Section 12‑6‑530. If the exception in Internal Revenue Code Section 1374(c) is effective for federal tax purposes, then this exception is applicable for South Carolina income tax purposes.”

B. This section takes effect upon approval by the Governor and applies to tax years after 2006.

SECTION 5.A. Section 12‑6‑2250(B) of the 1976 Code, as last amended by Act 116 of 2007, is further amended to read:

“(B) For taxable years beginning in 2007 through 2010 only, a taxpayer in subsection (A) shall apportion income by using the method provided in Section 12‑6‑2250(A) and, if applicable, the method provided in Section 12‑6‑2252. If the calculation permitted in Section 12‑6‑2252 results in a reduction in income ~~allocated~~ apportioned to this State, the reduction is allowed as follows:

Taxable year beginning in: Percentage of reduction allowed:

2007 20

2008 40

2009 60

2010 80~~.~~”

B. This section takes effect upon approval by the Governor and applies for tax years beginning after 2006.

SECTION 6.A. Section 12‑6‑2295(A) of the 1976 Code, as added by Act 116 of 2007, is amended to read:

“(A) The terms ‘sales’ as used in Section 12‑6‑2280 and ‘gross receipts’ as used in Section 12‑6‑2290 include, but are not limited to, the following items if they have not been separately allocated:

(1) receipts from the sale or rental of tangible real or personal property maintained for sale or rental to customers in the ordinary course of the taxpayer’s trade or business including inventory;

(2) ~~receipts from the sale of accounts receivable acquired in the ordinary course of trade or business for services rendered or from the sale or rental of property maintained for sale or rental to customers in the ordinary course of the taxpayer’s trade or business if the accounts receivable were created by the taxpayer or a related party. For purposes of this item, a related person includes a person that bears a relationship to the taxpayer as described in Section 267 of the Internal Revenue Code;~~

~~(3)~~ receipts from the use of intangible property ~~in this State~~ including, but not limited to, royalties from patents, copyrights, trademarks, and trade names;

~~(4)~~(3) net gain from the sale of tangible personal property or intangible property used in the trade or business unless otherwise provided in item (1) or (4)~~.~~ ~~For purposes of this subsection, property used in the trade or business means property subject to the allowance for depreciation, real property used in the trade or business, and intangible property used in the trade or business which is:~~

~~(a)~~ ~~not property of a kind that properly would be includible in inventory of the business if on hand at the close of the taxable year; or~~

~~(b)~~ ~~held by the business primarily for sale to customers in the ordinary course of the trade or business~~;

(4) net gains from the sale of accounts receivable, loans, or other intangible property held for sale in the ordinary course of the taxpayer’s trade or business;

(5) receipts from services ~~if the entire income‑producing activity is within this State. If the income‑producing activity is performed partly within and partly without this State, sales are attributable to this State to the extent the income‑producing activity is performed within this State~~;

(6) receipts from the sale of intangible property which are unable to be attributed to any particular state or states are excluded from the numerator and denominator of the factor.”

B. This section takes effect upon approval by the Governor and applies to tax years beginning after December 31, 2008.

SECTION 7.A. Section 12‑6‑3360(A) of the 1976 Code, as last amended by Act 116 of 2007, is further amended to read:

“(A) Taxpayers that operate manufacturing, tourism, processing, warehousing, distribution, research and development, corporate office, qualifying service‑related facilities, extraordinary retail establishment, qualifying technology intensive facilities, and banks as defined pursuant to this title are allowed an annual jobs tax credit as provided in this section. In addition, taxpayers that operate retail facilities and service‑related industries qualify for an annual jobs tax credit in counties designated as least developed or distressed, and in counties that are under developed and not traversed by an interstate highway. ~~As used in this section, ‘corporate office’ includes general contractors licensed by the South Carolina Department of Labor, Licensing and Regulation.~~ Credits pursuant to this section may be claimed against income taxes imposed by Section 12‑6‑510 or 12‑6‑530, bank taxes imposed pursuant to Chapter 11 of this title, and insurance premium taxes imposed pursuant to Chapter 7 ~~of~~, Title 38, and are limited in use to fifty percent of the taxpayer’s South Carolina income tax, bank tax, or insurance premium tax liability. In computing a tax payable by a taxpayer pursuant to Section 38‑7‑90, the credit allowable pursuant to this section must be treated as a premium tax paid pursuant to Section 38‑7‑20.”

B. This section takes effect upon approval by the Governor and applies to tax years beginning after December 31, 2005.

SECTION 8.A. Section 12‑6‑3376 of the 1976 Code, as added by Act 83 of 2007, is amended to read:

“Section 12‑6‑3376. (A) For taxable years beginning after 2007, and before 2011, a taxpayer is allowed a tax credit against the income tax imposed pursuant to this chapter for the in‑state purchase or lease of a plug‑in hybrid vehicle. The purchase or lease must be the first purchase or lease of the vehicle to qualify for the credit allowed by this section.

(B) A plug‑in hybrid vehicle is a vehicle that shares the same benefits as an internal combustion and electric engine with an all‑electric range of no less than nine miles. The credit is equal to two thousand dollars. The credit allowed by this section is nonrefundable and if the amount of the credit exceeds the taxpayer’s liability for the applicable taxable year, any unused credit may be carried forward for five years.

(C) The State Energy Office may promulgate regulations addressing qualifying vehicles, qualifying leases of those vehicles, and the application process for claiming credits pursuant to this section.

~~(B)~~(D) Notwithstanding the credit amount allowed pursuant to this section, for a ~~fiscal~~ calendar year all claims made pursuant to this section must not exceed two hundred thousand dollars and must apply proportionately to all eligible claimants. To obtain the amount of capped credit available to a taxpayer, each taxpayer must submit a request for credit to the State Energy Office on a form prescribed by the State Energy Office. The form must be submitted by January thirty‑first for vehicles purchased in the previous calendar year and the State Energy Office must notify the taxpayer of the amount of credit allocated to that taxpayer by March first of that year. A taxpayer may claim the capped credit for its taxable year which contains the December thirty‑first of the previous calendar year. The department may require a copy of the form issued by the State Energy Office be attached to the return or otherwise provided.”

B. For the state’s fiscal year beginning July 1, 2008, the capped credit is to be determined based on an eighteen‑month period beginning July 1, 2008, through December 31, 2009. Applications must 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 that contains December 31, 2009.

C. To the extent the caps on the credit contained in this section are repealed in legislation enacted before or after this section, the elimination of those caps must be seen as the last expression of the legislature and to the extent any language in this section conflicts with that repeal, it must be considered null and void.

SECTION 9. Section 12‑6‑3377 of the 1976 Code, as added by Act 312 of 2006, is amended to read:

“Section 12‑6‑3377. (A) A South Carolina resident taxpayer who is eligible for ~~and claims~~ the new qualified fuel cell motor vehicle credit, the new advanced lean burn technology motor vehicle credit, the new qualified hybrid motor vehicle credit based on the combined city/highway metric or standard set by federal Internal Revenue Code Section 30B, and the new qualified alternative fuel motor vehicle credit allowed pursuant to Internal Revenue Code Section 30B is allowed a credit against the income taxes imposed pursuant to this chapter in an amount equal to twenty percent of ~~that~~ the federal income tax credit, without consideration of limitations on the amount of the federal credit allowable that result from the federal alternative minimum tax. For credits associated with business use of the vehicle, the credit must be calculated without consideration of reductions in the credit that result from being part of the general business credit in Internal Revenue Code Section 38. The credit allowed by this section is nonrefundable and if the amount of the credit exceeds the taxpayer’s liability for the applicable taxable year, any unused credit may be carried forward and claimed in the five succeeding taxable years.

(B) The credit amount allowed by this section must be calculated without regard to the phaseout period limits of Internal Revenue Code Section 30B(f) ~~and for purposes of the credits allowed pursuant to this section, the provisions of Internal Revenue Code Section 30B are deemed permanent law~~.”

SECTION 10.A. Section 12‑6‑3535(A) of the 1976 Code, as last amended by Act 116 of 2007, is further amended to read:

“(A) A taxpayer who is allowed a federal income tax credit pursuant to Section 47 of the Internal Revenue Code for making qualified rehabilitation expenditures for a certified historic structure located in this State is allowed to claim a credit against income taxes and corporate license fees imposed by Chapter 20 of this title. For the purposes of this section, ‘qualified rehabilitation expenditures’ and ‘certified historic structure’ are defined as provided in the Internal Revenue Code Section 47 and the applicable treasury regulations. The amount of the credit is ten percent of the expenditures that qualify for the federal credit. To claim the credit allowed by this subsection, a taxpayer filing a paper return must attach a copy of the section of the federal income tax return showing the credit claimed, along with other information that the Department of Revenue determines is necessary for the calculation of the credit provided by this subsection.”

B. This section takes effect upon approval by the Governor and applies to tax years beginning after 2007.

SECTION 11.A. Section 12‑6‑3550(A) of the 1976 Code, as last amended by Act 342 of 2008, is further amended to read:

“(A) A taxpayer is allowed a credit against income taxes due pursuant to this chapter for costs of voluntary cleanup activity by a nonresponsible party pursuant to Article 7, Chapter 56, ~~of~~ Title 44, the Brownfields/Voluntary Cleanup Program, in the manner provided in this section.”

B. This section takes effect upon approval by the Governor, and applies to a party to a voluntary cleanup contract entered into pursuant to Section 44‑56‑750 after June 10, 2008.

SECTION 12.A. Section 12‑6‑3585(C) of the 1976 Code, as last amended by Act 116 of 2007, and (E) as added by Act 319 of 2006, is amended to read:

“(C) The use of the credit is limited to the taxpayer’s applicable income, bank, or premium tax or license fee liability for the tax year of the taxpayer after the application of all other credits. An unused credit may be carried forward ten tax years of the taxpayer after the end of the tax year of the taxpayer during which the qualified contribution was made.

(E) ‘Taxpayer’ means an individual, corporation, partnership, trust, bank, insurance company, or other entity having a state income, bank, or insurance premium tax or license fee liability who has made a qualified contribution.”

B. This section takes effect upon approval by the Governor and is effective for tax years beginning after December 31, 2005.

SECTION 13.A. Section 12‑6‑3610(C) of the 1976 Code, as last amended by Act 261 of 2008, is further amended to read:

“(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~~by March first as to whether it qualifies for the credit and the amount of credit ~~allocated~~available to the taxpayer ~~by March first of that year~~. If approved for the credit a taxpayer ~~may~~first must claim the approved 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~~considers 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. This section takes effect upon approval by the Governor for tax years beginning after December 31, 2008.

SECTION 14. Section 12‑6‑3630 of the 1976 Code, as added by Act 83 of 2007, is amended to read:

“Section 12‑6‑3630. (A) For taxable years beginning after 2007, and before 2012, a taxpayer is allowed a credit against the income tax imposed pursuant to Chapter 6 ~~or~~ of this title, bank tax imposed pursuant to Chapter 11 of this title, license fees imposed pursuant to Chapter 20 of this title, or insurance premium tax imposed pursuant to Chapter 7, Title 38, or a combination of them, for a qualified contribution made by a taxpayer to the South Carolina Hydrogen Infrastructure Development Fund established pursuant to Chapter 46, Title 11. A contribution is not a qualified contribution if it is subject to a condition or limitation regarding the use of the contribution.

(B) The credit is equal to twenty‑five percent of a qualified contribution made by a taxpayer to the fund. The credit must be claimed in the year in which the qualified contribution is made. The credit must be used against the taxpayer’s ~~liability on~~ income ~~taxes~~ tax, bank tax, premium insurance ~~taxes~~ tax, or license ~~fees~~ fee liability after the application of all other credits applicable to the taxpayer’s tax liability. Unused credits may be carried forward for ten years ~~after the tax year in which a qualified contribution was made~~. The credit is nonrefundable.

(C) A taxpayer who claims a credit for a qualified contribution pursuant to this section may not claim a deduction for the same qualified contribution.

(D) ~~A taxpayer who claims a credit pursuant to this section must attach to his tax return a copy of a form provided by the authority identifying the taxpayer’s qualified contribution.~~ The department may require that a copy of the form identifying the taxpayer’s qualified contribution be attached to the taxpayer’s return or otherwise provided. The ~~Department of Revenue~~ department may require from the taxpayer additional information identifying the taxpayer’s qualified contribution as it considers appropriate.”

SECTION 15. Section 12‑8‑1530(A) of the 1976 Code is amended to read:

“(A) A withholding agent shall file a quarterly return in a form prescribed by the department indicating the total amount withheld pursuant to this chapter during the calendar quarter. ~~The~~Unless the withholding agent has complied with the provisions of subsection (B), a return must be filed ~~even in quarters when no income tax has been withheld~~for every period even if no income tax has been withheld. The return must be filed on or before dates required for filing federal quarterly withholding returns specified in Internal Revenue Code Section 6071 and Internal Revenue Code Regulation Section 31.6071(a)(1), except the fourth quarter return. The fourth quarter return is due on or before the last day of February following the calendar year of the withholding.”

SECTION 16. Section 12‑8‑1550(C) of the 1976 Code is amended to read:

“(C) Where essentially the same information required to be submitted by Section 12‑8‑1540 is required to be submitted to ~~the Internal Revenue Service~~a federal agency on magnetic media, ~~the same method must be used for purposes of this section~~or by other electronic means, the department may prescribe either an electronic or magnetic media method for submitting this information.”

SECTION 17.A. Section 12‑10‑80(C)(3)(f) of the 1976 Code, as last amended by Act 313 of 2008, is further amended to read:

“(f) employee relocation expenses associated with new or expanded qualifying service‑related facilities as defined in Section 12‑6‑3360(M)(13) or new or expanded technology intensive facilities as defined in Section 12‑6‑3360(M)(14) or relocation expenses associated with new national, regional, or global headquarters as defined in Section 12‑6‑3410(J)(1)~~(a)~~ or relocation expenses associated with an expanded research and development facility to include personnel and laboratory research and development equipment;”

B. Section 12‑10‑80(J) of the 1976 Code, as added by Act 313 of 2008, is amended to read:

“(J) Where the qualifying business that creates new jobs under this ~~section~~chapter is a qualifying service‑related facility as defined in Section 12‑6‑3360(M)(13), the determination of the number of jobs created must be based on the total number of new jobs created within five years of the effective date of the revitalization agreement, without regard to ~~monthly or other averaging~~any monthly average described in Section 12‑6‑3360.”

SECTION 18. Section 12‑20‑100(A)(1) of the 1976 Code is amended to read:

“(1) one dollar for each thousand dollars, or fraction of a thousand dollars, of fair market value of property owned and used within this State in the conduct of business as determined ~~by the department~~for property tax purposes for the preceding taxable year; and”

SECTION 19. Section 12‑21‑2575 of the 1976 Code is amended to read:

“Section 12‑21‑2575. ~~In lieu~~Instead of the issuance of tickets to be collected and retained as provided for in this article, the department may authorize or approve other methods of accounting for paid admissions.”

SECTION 20. Section 12‑36‑910(B)(6) and (7) of the 1976 Code, as added by Act 161 of 2005 and Act 386 of 2006, respectively, are amended to read:

“(6) ~~gross proceeds accruing or proceeding from the sale or renewal of warranty, maintenance, or similar service contracts for tangible property, whether or not such contracts are purchased in conjunction with the sale of tangible personal property.~~

~~(7)~~ gross proceeds accruing or proceeding from the sale or renewal of warranty, maintenance, or similar service contracts for tangible personal property, whether or not the contracts are purchased in conjunction with the sale of tangible personal property.”

SECTION 21.A. Section 12‑36‑2120(67) of the 1976 Code, as last amended by Act 116 of 2007, is amended to read:

“(67) effective July 1, 2011, construction materials used in the construction of a new or expanded single manufacturing or distribution facility, or one that serves both purposes, with a capital investment of at least one hundred million in real and personal property at a single site in the State over an eighteen‑month period. The taxpayer must provide notice of the exemption, and the Department of Revenue may assess taxes owing in the manner provided in Section 12‑36‑2120(51). To qualify for this exemption, the taxpayer shall notify the department before the first month it uses the exemption and shall make the required investment over the eighteen‑month period beginning on the date provided by the taxpayer to the department in its notices. The taxpayer shall notify the department in writing that it has met the investment requirement or, after the expiration of the eighteen‑month period, that it has not met the investment requirement. The department may assess any tax due on construction materials purchased tax‑free pursuant to this item but due the State as a result of the taxpayer’s failure to meet the investment requirement. The running of the periods of limitations for assessment of taxes provided in Section 12‑54‑85 is suspended for the time period beginning with notice to the department before the taxpayer uses the exemption and ending with notice to the department that the taxpayer either has met or has not met the investment requirement.”

B. Notwithstanding the sales and use rates imposed pursuant to Chapter 36, Title 12 of the 1976 Code, the rate of tax imposed pursuant to that chapter on the gross proceeds of qualifying construction materials used in the construction of a single manufacturing or distribution facility, as provided in item (67), is four percent for sales from July 1, 2007, through June 30, 2008, three percent for sales from July 1, 2008, through June 30, 2009, two percent for sales from July 1, 2009, through June 30, 2010, and one percent for sales from July 1, 2010, through June 30, 2011.

C. Section 12‑36‑2120(70) of the 1976 Code, as added by Act 34 of 2007, is amended to read:

“(70)(a) gold, silver, or platinum bullion, or any combination of this bullion;

(b) coins that are or have been legal tender in the United States or other jurisdiction; and

(c) currency that is or has been legal tender in the United States or other jurisdiction.

~~The department shall prescribe documentation that must be maintained by retailers claiming the exemption allowed by this item. This~~ Sufficient documentation must be ~~sufficient~~ maintained by the retailer to identify each individual sale for which the exemption is claimed.”

D. Section 12‑36‑2120(74) of the 1976 Code, as added by Act 99 of 2007, is amended to read:

“(74) durable medical equipment and related supplies:

(a) as defined under federal and state Medicaid and Medicare laws; and

(b) which is paid directly by funds of this State or the United States under the Medicaid or Medicare programs, where state or federal law or regulation authorizing the payment prohibits the payment of the ~~sale~~ sales or use tax~~; and~~

~~(c)~~ ~~sold by a provider who holds a South Carolina retail sales license and whose principal place of business is located in this State~~.”

E. This section takes effect July 1, 2007.

SECTION 22. Subsection (h) of the second undesignated paragraph in Section 12‑37‑90 of the 1976 Code is amended to read:

“(h) be the sole person responsible for the valuation of real property, except that required by law to be appraised and assessed by the department, and the values set by the assessor may be altered only by the assessor or by legally constituted appellate boards~~, the department,~~ or the courts;”

SECTION 23. Section 12‑37‑220(B)(16)(c) of the 1976 Code, as added by Act 352 of 2008, is amended to read:

“(c) ~~The exemption allowed pursuant to subitem (a) of this item extends to real property owned by an organization described in subitem (a) and which~~The real property of any religious, charitable, eleemosynary, educational, or literary society, corporation, or other association if that organization qualifies as a tax exempt organization pursuant to Internal Revenue Code Section 501(c)(3), ~~when~~and the ~~real~~ property is held for a future use by the organization ~~that would qualify for the exemption allowed pursuant to subitem (a) of this item~~ or held for investment by the organization in sole pursuit of the organization’s exempt purposes and, while held, this real property is not rented or leased for a purpose unrelated to the exempt purposes of the organization and the use of the real property does not inure to the benefit of any private stockholder or individual. Real property donated to the organization which receives the exemption allowed pursuant to this subitem is allowed the exemption for no more than three consecutive property tax years. If real property acquired by the organization by purchase receives the exemption allowed pursuant to this subitem and is ~~subsequently~~later sold without ever having been put to the exempt use, the exemption allowed pursuant to this subitem is ~~deemed~~ considered terminated as of December thirty‑first preceding the year of sale and the property is subject to property tax for the year of sale to which must be added a recapture amount equal to the property tax that would have been due on the real property for not more than the four preceding years in which the real property received the exemption allowed pursuant to this subitem. The recapture amount is ~~deemed~~considered property tax for all purposes for payment and collection.”

SECTION 24. Section 12‑37‑220(B)(23) of the 1976 Code is amended to read:

“(23) Notwithstanding ~~any other~~another provision of law, property ~~heretofore~~exempt from ad valorem taxation by reason of the imposition upon ~~such~~that property or the owner of ~~such~~that property of a tax other than an ad valorem tax pursuant to the provisions of Section 12‑11‑30, Section 12‑13‑50, or Section ~~12‑21‑1080~~12‑21‑1085 ~~shall continue to be entitled to such exemption~~is exempt.”

SECTION 25. Section 12‑44‑30(18) of the 1976 Code, as last amended by Act 69 of 2003, is further amended to read:

“(18) ‘Sponsor’ means one or more entities ~~which~~that sign the fee agreement with the county and ~~makes~~make the minimum investment, subject to the provisions of Section 12‑44‑40, each of which makes the minimum investment as provided in Section 12‑44‑30~~(13)~~(14) and also includes a sponsor affiliate unless the context clearly indicates otherwise. If a project consists of a manufacturing, research and development, corporate office, or distribution facility, as those terms are defined in Section 12‑6‑3360(M), each sponsor or sponsor affiliate is not required to invest the minimum investment if the total investment at the project exceeds ten million dollars.”

SECTION 26. Section 12‑54‑70(a) of the 1976 Code, as last amended by Act 116 of 2007, is further amended to read:

“(a) The department may allow ~~further~~an extension of time for the filing of returns or remitting of tax due required by the provisions of law administered by the department. The request for an extension must be filed with the department on or before the day the return of the tax is due. Except as otherwise provided~~in this section~~, the department may allow an extension of time ~~not to exceed~~up to six months, or if applicable, the extended time period allowed to file the taxpayer’s corresponding federal return. A tentative return is required reflecting one hundred percent of the anticipated tax to be paid for the taxable period, to be accompanied by a remittance for the tentative tax liability. Interest at the rate provided in Section 12‑54‑25, calculated from the date the tax was originally due, must be added to the balance due whenever an extension to file or to remit tax due is granted.”

SECTION 27. Section 12‑54‑85(C) of the 1976 Code, as last amended by Act 116 of 2007, is further amended to read:

“(C) Taxes may be determined and assessed after the thirty‑six month limitation if:

(1) there is fraudulent intent to evade the taxes;

(2) the taxpayer failed to file a return or document as required by law;

(3) there is a twenty percent understatement of the total of all taxes required to be shown on the return or document. The taxes in this case may be assessed at any time within seventy‑two months from the date the return or document was filed or due to be filed, whichever is later. For the purpose of this item, the total of all taxes required to be shown on the return is the total of all taxes required to be shown on the return before any reduction for estimated payments, withholding payments, other prepayments, or discount allowed for timely filing of the return and payment of the tax due, but that amount must be reduced by ~~another credit~~ other credits that may be claimed on the return;

(4) the person liable for any taxes consents in writing, before the expiration of the time prescribed in this section for assessing taxes due, to the assessment of the taxes after the time prescribed by this section; or

(5) the tax is a use tax imposed under Chapter 36 of this title, or a local use tax administered and collected by the department on behalf of a local jurisdiction, and the assessment of the use tax is the result of information received from, or as a result of exchange agreements with, other state or local taxing authorities, regional or national tax administration organizations, or the federal government. The use taxes in this case may be assessed at any time within twelve months after the department receives the information, but no later than seventy‑two months after the last day the use tax may be paid without penalty.”

SECTION 28. Section 12‑54‑240(A) of the 1976 Code is amended to read:

“(A) Except in accordance with proper judicial order or as otherwise provided by law, it is unlawful for a person wilfully to divulge or make known in any manner any particulars set forth or disclosed in any report or return required ~~under~~pursuant to Chapters 6, 8, 11, 13, 16, 20, or 36 or Article 17~~of~~, Chapter 21 of this title. A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both. If the offender is an officer or an employee of the State and is convicted of a violation of this section, he must be dismissed from office and is disqualified from holding any public office in this State for a period of five years ~~thereafter~~after that. If the offender is an officer or employee of a company retained by the State on an independent contract basis ~~under~~pursuant to subsection (B)(3) of this section or pursuant to Section 12‑4‑350 and the officer or employee is convicted of a violation of this section, the contract is immediately terminated and the company is not eligible to contract with the State for this purpose for a period of five years ~~thereafter~~after that.”

SECTION 29. Section 12‑63‑20(A) of the 1976 Code, as last amended by Act 261 of 2008, is further amended to read:

“(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.

(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.

(3) For purposes of this subsection, ‘biodiesel’ means the same as in Section 12‑28‑110(70).”

SECTION 30.A. Section 30‑2‑320(6) and (7) of the 1976 Code, as added by Act 190 of 2008, is amended to read:

“(6) on a document filed in the official records of the courts; ~~and~~

(7) to an employer for employment verification or in the course of administration or provision of employee benefit programs, claims, and procedures related to employment including, but not limited to, termination from employment, retirement from employment, injuries suffered during the course of employment, and other such claims, benefits, and procedures; and

(8) by the South Carolina Department of Revenue or its agents or employees for the purposes of administering and collecting any tax, debt, or fee administered by that department and otherwise performing its duties and responsibilities.”

B. Section 37‑20‑180(B)(9) and (10) of the 1976 Code, as added by Act 190 of 2008, is amended to read:

“(9) to a recorded document in the official records of a county; ~~or~~

(10) to a document filed in the official records of the court; or

(11) to the South Carolina Department of Revenue or its agents or employees for the purposes of administering and collecting any tax, debt, or fee administered by that department and otherwise performing its duties and responsibilities.”

C. Upon approval by the Governor, this section takes effect December 31, 2008.

SECTION 31. Section 44‑43‑1360 of the 1976 Code, as last amended by Act 92 of 2007, is further amended to read:

“Section 44‑43‑1360. The board may employ a director and other staff as necessary to carry out the provisions of this article; ~~however~~except that, administration of this article may not exceed twenty percent of the total funds credited to Donate Life South Carolina, excluding the administrative fee paid to the Department of Revenue pursuant to Sections ~~12‑6‑5065~~12‑6‑5060 and 59‑1‑143.”

SECTION 32. Section 12‑20‑175 of the 1976 Code is repealed.

SECTION 33. Section 12‑36‑30 of the 1976 Code is repealed.

SECTION 34. Unless otherwise provided herein, this act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑