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Indicates New Matter

AS PASSED BY THE SENATE

June 2, 2016

**H. 3147**

Introduced by Reps. G.M. Smith, G.R. Smith, Huggins, Weeks, Taylor, Pope, Collins, Johnson, Stavrinakis, Yow, Clemmons, Goldfinch, Murphy, J.E. Smith and Mitchell

S. Printed 6/2/16--S.

Read the first time April 29, 2015.

**A** **BILL**

TO AMEND SECTION 12‑6‑1140, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEDUCTIONS FROM SOUTH CAROLINA TAXABLE INCOME OF INDIVIDUALS FOR PURPOSES OF THE SOUTH CAROLINA INCOME TAX ACT, SO AS TO ALLOW THE DEDUCTION OF RETIREMENT BENEFITS ATTRIBUTABLE TO SERVICE ON ACTIVE DUTY IN THE ARMED FORCES OF THE UNITED STATES; AND TO AMEND SECTION 12‑6‑1170, AS AMENDED, RELATING TO THE RETIREMENT INCOME DEDUCTION, SO AS TO CONFORM THIS DEDUCTION TO THE MILITARY RETIREMENT DEDUCTION ALLOWED BY THIS ACT.

Amend Title To Conform

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

SECTION 1. A. Section 12-6-1170 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( )(1) Notwithstanding any other provision of this section, if a taxpayer claims a deduction pursuant to Section 12‑6‑1171, then the deduction allowed by this section must be reduced by the amount the taxpayer deducts pursuant to Section 12‑6‑1171; however, this subsection does not apply if the deduction claimed pursuant to Section 12‑6‑1171 is claimed by a surviving spouse.

(2) In the case of married taxpayers who file a joint federal income tax return, the reduction required by item (1) applies to each individual separately, so that the reduction only applies to the amount the individual claiming the deduction pursuant to Section 12‑6‑1171 otherwise could have claimed pursuant to this section if the individual had not filed a joint return.”

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

“Section 12‑6‑1171. (A)(1) An individual taxpayer who has military retirement income, each year may deduct an amount of his South Carolina earned income from South Carolina taxable income equal to the amount of military retirement income that is included in South Carolina taxable income, not to exceed seventeen thousand five hundred dollars. In the case of married taxpayers who file a joint federal income tax return, the deduction allowed by this section shall be calculated separately as though they had not filed a joint return, so that each individual’s deduction is based on the same individual’s retirement income and earned income. For purposes of this item, ‘South Carolina earned income’ has the same meaning as provided in Section 12-6-3330.

(2) Notwithstanding item (1), beginning in the year in which an individual taxpayer reaches age sixty‑five, an individual taxpayer who has military retirement income may deduct up to thirty thousand dollars of military retirement income that is included in South Carolina taxable income.

(B) The term ‘retirement income’, as used in this section, means the total of all otherwise taxable income not subject to a penalty for premature distribution received by the taxpayer or the taxpayer’s surviving spouse in a taxable year from a qualified military retirement plan. For purposes of a surviving spouse, ‘retirement income’ also includes a retirement benefit plan and dependent indemnity compensation related to the deceased spouse’s military service.

(C) A surviving spouse receiving military retirement income that is attributable to the deceased spouse shall apply this deduction in the same manner that the deduction applied to the deceased spouse. If the surviving spouse also has another retirement income, an additional retirement exclusion is allowed.

(D) The department may require the taxpayer to provide information necessary for proper administration of this subsection.”

C. Notwithstanding the deduction allowed pursuant to Section 12-6-1171(A)(1), beginning in tax year 2016, the amount of the deduction shall be five thousand nine hundred dollars, and it shall increase by two thousand nine hundred dollars every year, until it is completely phased-in in 2020. Notwithstanding the deduction allowed pursuant to Section 12-6-1171(A)(2), beginning in tax year 2016, the amount of the deduction shall be eighteen thousand dollars, and it shall increase by three thousand dollars every year, until it is completely phased-in in 2020.

SECTION 2. A. Section 12‑65‑30(C) of the 1976 Code is amended to read:

(C) If the taxpayer elects to receive the credit pursuant to subsection (A)(2), the following provisions apply:

(1) The amount of the credit is equal to twenty‑five percent of the actual rehabilitation expenses made at the textile mill site.

(2) If the taxpayer has acquired the textile mill site after December 31, 2007, the provisions of this item (2) apply to the textile mill site; provided, however, that transfers between affiliated taxpayers of phases of any textile mill site may not be deemed an acquisition for this purpose. The taxpayer shall file with the department a Notice of Intent to Rehabilitate prior to receiving the building permits for the applicable rehabilitation at the textile mill site or phase thereof. Failure to provide the Notice of Intent to Rehabilitate prior to receiving the building permits for the applicable rehabilitation at the textile mill site or phase thereof results in qualification of only those rehabilitation expenses incurred after the notice is provided. If the actual rehabilitation expenses exceed one hundred twenty‑five percent of the estimated expenses set forth in the Notice of Intent to Rehabilitate, the taxpayer qualifies for the credit based on one hundred twenty‑five percent of the estimated expenses as opposed to the actual expenses incurred in rehabilitating the textile mill site.

(3) The entire credit is earned in the taxable year in which the applicable phase or portion of the textile mill site is placed in service but must be taken in equal installments over a five‑year period beginning with the tax year in which the applicable phase or portion of the textile mill site is placed in service. Unused credit may be carried forward for the succeeding five years, at the individual, partnership or limited liability company level.

(4) If the taxpayer qualifies for both the credit allowed by this subsection and the credit allowed pursuant to Section 12‑6‑3535, the taxpayer may claim both credits.

(5) The credit allowed by this subsection is limited in use to fifty percent of each of the following:

(a) the taxpayer’s income tax liability for the taxable year if taxpayer claims the credit allowed by this section as a credit against income tax imposed pursuant to Chapter 6 or Chapter 11 of this title;

(b) the taxpayer’s corporate license fees for the taxable year if the taxpayer claims the credit allowed by this section as a credit against license fees imposed pursuant to Chapter 20; or

(c) the taxpayer’s insurance premium taxes imposed by Chapter 7, Title 38.

(6)(a) If the taxpayer leases the textile mill site, or part of the textile mill site, the taxpayer may transfer any applicable remaining credit associated with the rehabilitation expenses incurred with respect to that part of the site to the lessee of the site. The provisions of item (7) of this subsection apply to a lessee that is an entity taxed as a partnership. If a taxpayer sells the textile mill site, or any phase or portion of the textile mill site, the taxpayer may transfer all, or part of the remaining credit, associated with the rehabilitation expenses incurred with respect to that phase or portion of the site to the purchaser of the applicable portion of the textile mill site.

(b) To the extent that the taxpayer transfers the credit, the taxpayer must notify the department of the transfer in the manner the department prescribes.

(7) To the extent that the taxpayer is a partnership or a limited liability company taxed as a partnership, the credit, including the unused credit carryforward, may be passed through to the partners or members and may be allocated by the taxpayer among any of its partners or members on an annual basis including, without limitation, an allocation of the entire credit or unused credit carryforward to any partner or member who was a member or partner at any time during the year in which the credit is allocated.

B. This SECTION shall apply to all projects placed in service after December 31, 2014 and for all tax years for which final returns have not been filed as of April 30, 2016.

SECTION 3. This act takes effect upon approval by the Governor and first applies to tax years beginning after 2015.

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