~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

October 2, 2018

**H. 5341**

Introduced by Reps. Lucas, White, Simrill, Rutherford, Murphy, S. Rivers and Davis

S. Printed 10/2/18--S.

Read the first time May 8, 2018.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (H. 5341) to amend Section 12‑6‑40, Code of Laws of South Carolina, 1976, relating to the application of the internal revenue code to state income tax laws, 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, by striking all after the enacting words and inserting:

/SECTION 1. This act may be referred to as the ‘South Carolina Taxpayer Protection and Relief Act’.

SECTION 2. Section 12‑6‑40(A)(1)(a) and (c) of the 1976 Code is amended to read:

“(a) Except as otherwise provided, ‘Internal Revenue Code’ means the Internal Revenue Code of 1986, as amended through ~~December 31, 2016~~ February 9, 2018, 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, ~~2016~~ 2017, are extended, but otherwise not amended, by congressional enactment during ~~2017~~ 2018, 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 3. A. Section 12‑6‑50 of the 1976 Code is amended to read:

“Section 12‑6‑50. For purposes of this title and all other titles that provide for taxes administered by the department, except as otherwise specifically provided, the following Internal Revenue Code Sections are specifically not adopted by this State:

(1) Sections 1(a) through 1(e), 3, 11, and 1201 relating to federal tax rates;

(2) Sections 22 through 54, 515, 853, 901 through 908, and 960 relating to tax credits;

(3) Sections 55 through 59A relating to minimum taxes;

(4) Sections 78, 85(c), 86, 87, 168(k), 168(l), 168(m), 168(n), 196, and 280C relating to dividends received from certain foreign corporations by domestic corporations, unemployment compensation, taxation of social security and certain railroad retirement benefits, the alcohol fuel credit, bonus depreciation, deductions for certain unused business credits, and certain expenses for which credits are allowable;

(5) Sections 72(m)(5)(B), 72(f), 72(o), 72(q), and 72(t)~~,~~ relating to penalty taxes on certain retirement plan distributions;

(5A) Section 108(i) relating to the deferral and ratable inclusion of income arising from business indebtedness discharged by the reacquisition of a debt instrument;

(5B) Section 163(e)(5)(F) relating to original issue discount on certain high yield obligations, Section 163(j) relating to limitation on business interest expense, and Section 381(c)(20) and 382(d)(3) relating to carryover of limited business interest;

(6) Section 172(b)(1) relating to net operating loss carrybacks;

(7) ~~Section 199 relating to the deduction attributable to domestic production activities~~ Reserved;

(8) Sections 531 through 564 relating to certain special taxes on corporations;

(9) Sections 581, 582, and 585 through 596 relating to the taxation of banking institutions;

(10) Sections 665 through 668 relating to taxation of certain accumulation distributions from trusts;

(11) Sections 801 through 848 relating to taxation of insurance companies;

(12) Sections 250, 267A, and 861 through 909, 912, 931 through 940, and 944 through 989 relating to the taxation of foreign income;

(13) Sections 1352 through 1359 relating to an alternative tax on qualifying shipping activities;

(14) Sections 1400 through 1494, except 1400Z;

(15) Sections 1501 through 1505 relating to consolidated tax returns; ~~and~~

(16) Sections 2001 through 7655, 7801 through 7871, and 8001 through 9602, except for Sections 6015 and 6701, and except for Sections 6654 and 6655 which are adopted as provided in Section 12‑6‑3910 and Section 12‑54‑55. However, Section 6654(d)(1)(D) relating to estimated tax payments for qualified individuals as defined in that item is not adopted.

(17) Section 68 relating to the reduction on itemized deductions and Section 151(d)(3) relating to the reduction on the personal exemption for:

(a) a joint return or surviving spouse with an adjusted gross income exceeding three hundred thousand dollars or the same adjusted gross income adjusted for inflation pursuant to Section 68, whichever is higher;

(b) a head of household with an adjusted gross income exceeding two hundred seventy‑five thousand dollars or the same adjusted gross income adjusted for inflation pursuant to Section 68, whichever is higher; and

(c) an individual who is not married and who is not a surviving spouse or head of household with an adjusted gross income exceeding two hundred fifty thousand dollars or the same adjusted gross income adjusted for inflation pursuant to Section 68, whichever is higher~~.~~;

(18) Section 118(b)(2) relating to any contribution by any governmental entity or civic group, other than a contribution made by a shareholder as such;

(19) Section 199A relating to qualified business income;

(20) Section 162(r) relating to FDIC premiums.”

B. The Department of Revenue shall make and publish rules and promulgate regulations to effectively administer the provisions of this SECTION.

SECTION 4. A. Section 12‑6‑520 of the 1976 Code is amended to read:

“Section 12‑6‑520. Beginning on December 15, 2018, and each December ~~15~~ fifteenth thereafter, the department shall cumulatively adjust the brackets in Section 12‑6‑510 ~~in the same manner that brackets are adjusted in~~ using the Chained Consumer Price Index for All Consumers, as published by the Bureau of Labor and Statistics of the Department of Labor, pursuant to Internal Revenue Code Section (1)(f). However, the adjustment ~~is limited to one‑half of the adjustment determined by Internal Revenue Code Section (1)(f),~~ may not exceed four percent a year, and notwithstanding the rounding amount provided in ~~(1)(f)(6)~~ (1)(f)(7), the rounding amount is ten dollars. The brackets, as adjusted, apply ~~in lieu~~ instead of those provided in Section 12‑6‑510 for taxable years beginning in the succeeding calendar year. Inflation adjustments must be made cumulatively to the income tax brackets.”

B. This SECTION takes effect upon approval by the Governor and first applies to the adjustment made for tax year 2019, with the 2018 income tax brackets being used first as the base year upon which adjustments made pursuant to Section 12‑6‑520, as amended by this act, are made.

SECTION 5. A. Section 12-6-1140 of the 1976 Code is amended by adding an item at the end to read:

“(13) a South Carolina dependent exemption equal to four thousand one hundred and ten dollars for each eligible dependent of the taxpayer, including both qualifying children and qualifying relatives. To qualify for the deduction allowed by this item, each dependent must meet the eligibility requirements of Section 151 and 152, as applicable, mutatis mutandis, as those sections applied on January 1, 2017. Notwithstanding the deduction amount set forth in this item, each December fifteenth, the department shall cumulatively adjust the deduction amount using the Chained Consumer Price Index for All Consumers, as published by the Bureau of Labor and Statistics of the Department of Labor, pursuant to Internal Revenue Code Section (1)(f),except that the rounding amount is ten dollars.”

B. Notwithstanding Section 12‑6‑1140(13), as added by this SECTION, the Department of Revenue shall not adjust the deduction set forth in Section 12‑6‑1140(13) for tax year 2018.

SECTION 6. Section 12‑6‑1160 of the 1976 Code is amended to read:

“Section 12‑6‑1160. A resident individual taxpayer is allowed ~~a~~ an additional deduction for each dependent ~~claimable on the taxpayer’s federal income tax return~~ eligible for the South Carolina dependent exemption pursuant to Section 12‑6‑1140 who has not yet attained the age of six years during the applicable tax year. ~~This deduction is contingent upon the identification in the annual general appropriations act of revenues sufficient to offset the revenue loss caused by the exemption.~~ The deduction allowed by this section is an amount equal to ~~a percentage of the federal income tax personal exemption amount allowed for the applicable taxable year as follows:~~

~~Taxable year 1994~~ ~~twenty‑five percent~~

~~Taxable year 1995~~ ~~fifty percent~~

~~Taxable year 1996~~ ~~seventy‑five percent~~

~~Taxable years after 1996~~ ~~one hundred percent~~

the South Carolina dependent exemption allowed pursuant to Section 12‑6‑1140.”

SECTION 7. The Department of Revenue shall take actions necessary to implement the provisions of this act and take the appropriate actions to educate taxpayers of the amendments contained within this act, especially those, if any, that impact filing requirements or determination of taxable income.

SECTION 8. By January 15, 2025, the Department of Revenue, in coordination with the Revenue and Fiscal Affairs Office, shall deliver a report to the General Assembly that specifies the many provisions of the Tax Cuts and Jobs Act of 2017 that expire after tax year 2025.

SECTION 9. Except where specified otherwise, this act takes effect upon approval by the Governor and first applies to tax years beginning after 2017. /

Renumber sections to conform.

Amend title to conform.

HUGH K. LEATHERMAN, SR. for Committee.

**A** **BILL**

TO AMEND SECTION 12‑6‑40, 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 PROVIDE AN EXCEPTION FOR PERSONAL AND DEPENDENT EXEMPTION AMOUNTS, 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; AND TO AMEND SECTION 12‑6‑50, RELATING TO PROVISIONS OF THE INTERNAL REVENUE CODE NOT ADOPTED BY THIS STATE, SO AS TO NOT ADOPT CERTAIN PROVISIONS.

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

SECTION 1. Section 12‑6‑40(A)(1) of the 1976 Code is amended to read:

“(1)(a) Except as otherwise provided, ‘Internal Revenue Code’ means the Internal Revenue Code of 1986, as amended through ~~December 31, 2016~~ February 9, 2018, and includes the effective date provisions contained in it.

(b) ~~For purposes of Sections 63 and 179 of the Internal Revenue Code, the amendments made by Sections 103 and 202 of the Jobs and Growth Tax Relief Reconciliation Act of 2003, P.L. 108‑27 (May 28, 2003) are effective only for taxable years beginning after December 31, 2003.~~ For South Carolina income tax purposes, for tax years beginning after December 31, 2017, and before January 1, 2026, the zero personal exemption amount provided for under Section 151 of the Internal Revenue Code, shall be one thousand five hundred twenty‑five dollars, and must be adjusted annually and cumulatively pursuant to Section 1(f) of the Internal Revenue Code. For tax years beginning after December 31, 2017, and before January 1, 2026, all references in this title to the federal personal exemption amount shall mean the amount provided in this item and the deduction set forth in Section 12‑6‑1160 for a dependent under the age of six is not allowed.

(c) If Internal Revenue Code sections adopted by this State which expired or portions thereof expired on December 31, ~~2016~~ 2017, are extended, but otherwise not amended, by congressional enactment during ~~2017~~ 2018, 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. Section 12‑6‑50 of the 1976 Code is amended to read:

“Section 12‑6‑50. For purposes of this title and all other titles that provide for taxes administered by the department, except as otherwise specifically provided, the following Internal Revenue Code Sections are specifically not adopted by this State:

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(2) Sections 22 through 54, 515, 853, 901 through 908, and 960 relating to tax credits;

(3) Sections 55 through 59A relating to minimum taxes;

(4) Sections 78, 85(c), 86, 87, 168(k), 168(l), 168(m), 168(n), 196, and 280C relating to dividends received from certain foreign corporations by domestic corporations, unemployment compensation, taxation of social security and certain railroad retirement benefits, the alcohol fuel credit, bonus depreciation, deductions for certain unused business credits, and certain expenses for which credits are allowable;

(5) Sections 72(m)(5)(B), 72(f), 72(o), 72(q), and 72(t)~~,~~ relating to penalty taxes on certain retirement plan distributions;

(5A) Section 108(i) relating to the deferral and ratable inclusion of income arising from business indebtedness discharged by the reacquisition of a debt instrument;

(5B) Section 163(e)(5)(F) relating to original issue discount on certain high yield obligations and Section 163(j) relating to limitation on business interest expense;

(6) Section 172(b)(1) relating to net operating loss carrybacks;

(7) Section 199 relating to the deduction attributable to domestic production activities;

(8) Sections 531 through 564 relating to certain special taxes on corporations;

(9) Sections 581, 582, and 585 through 596 relating to the taxation of banking institutions;

(10) Sections 665 through 668 relating to taxation of certain accumulation distributions from trusts;

(11) Sections 801 through 848 relating to taxation of insurance companies;

(12) Sections 250, 267A, 381(c)(20), 382(d)(3), and 861 through 909, 912, 931 through 940, and 944 through 989 relating to the taxation of foreign income;

(13) Sections 1352 through 1359 relating to an alternative tax on qualifying shipping activities;

(14) Sections 1400 through 1494, except 1400(Z);

(15) Sections 1501 through 1505 relating to consolidated tax returns; and

(16) Sections 2001 through 7655, 7801 through 7871, and 8001 through 9602, except for Sections 6015 and 6701, and except for Sections 6654 and 6655 which are adopted as provided in Section 12‑6‑3910 and Section 12‑54‑55. However, Section 6654(d)(1)(D) relating to estimated tax payments for qualified individuals as defined in that item is not adopted.

(17) Section 68 relating to the reduction on itemized deductions and Section 151(d)(3) relating to the reduction on the personal exemption for:

(a) a joint return or surviving spouse with an adjusted gross income exceeding three hundred thousand dollars or the same adjusted gross income adjusted for inflation pursuant to Section 68, whichever is higher;

(b) a head of household with an adjusted gross income exceeding two hundred seventy‑five thousand dollars or the same adjusted gross income adjusted for inflation pursuant to Section 68, whichever is higher; and

(c) an individual who is not married and who is not a surviving spouse or head of household with an adjusted gross income exceeding two hundred fifty thousand dollars or the same adjusted gross income adjusted for inflation pursuant to Section 68, whichever is higher.

(18) Section 118(b)(2) relating to any contribution by any governmental entity or civic group, other than a contribution made by a shareholder as such.

(19) Section 199A relating to qualified business income.

(20) Section 162(r) relating to FDIC premiums.”

SECTION 3. This act takes effect upon approval by the Governor.

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