**South Carolina General Assembly**

123rd Session, 2019-2020

**S. 390**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Rice

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Introduced in the Senate on January 22, 2019

Currently residing in the Senate Committee on **Finance**

Summary: Income tax credits

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/22/2019 Senate Introduced and read first time ([Senate Journal‑page 4](file:///h:\sj\20190122.docx))

1/22/2019 Senate Referred to Committee on **Finance** ([Senate Journal‑page 4](file:///h:\sj\20190122.docx))

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**VERSIONS OF THIS BILL**

[1/22/2019](file:///p:\pprever\2019-20\390_20190122.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑6‑3800 SO AS TO PROVIDE FOR TAX CREDITS OR REBATES AGAINST VARIOUS TYPES OF TAXES IMPOSED UNDER STATE LAW FOR ELIGIBLE TAXPAYERS EQUAL TO TWENTY PERCENT OF NEW TAX REVENUE PAID BY THESE TAXPAYERS IF THEY HAVE MADE A QUALIFYING CAPITAL INVESTMENT AT THEIR BUSINESS LOCATION WHERE THIS ADDITIONAL TAX REVENUE WAS GENERATED, AND TO PROVIDE PROCEDURES FOR AND LIMITATIONS ON THESE TAX CREDITS OR REBATES.

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

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

“Section 12‑6‑3800. (A) As used in this section, the following words and phrases, unless the contract clearly indicates otherwise, mean:

(1) ‘Qualifying capital investment’ means an expenditure in an aggregate amount of two hundred fifty thousand dollars or more to acquire, lease, or improve real and business personal property that is used in operating a business location which holds a State of South Carolina retail sales tax license. Qualifying capital investment, however, does not include relocating an existing business in this State to another location in this State without the required additional capital investment.

(2) ‘Taxpayer’ means a sole proprietor, partnership, corporation of any classification, limited liability company, or association taxable as a business entity that is subject to South Carolina taxes as contained in Section 12‑6‑510 or 12‑6‑530, and Chapter 36, Title 12.

(B) The taxes to which the tax credits or rebates provided by this section apply are:

(1) state sales and use taxes imposed by the provisions of Chapter 36. The tax credits provided by this item also apply to local option sales and use taxes authorized by law which are collected by the Department of Revenue and remitted to the local jurisdictions authorized to receive the proceeds. The department in these cases shall deduct from the revenue distributed to the local jurisdiction the amount of the tax credit to which the taxpayer is entitled;

(2) ad valorem property taxes which do not include any payments required under a fee in lieu of a property tax agreement; and

(3) state income taxes imposed under Chapter 6.

(C) A taxpayer in a tax year beginning in 2019, and after that may claim annually a nonrefundable tax credit or rebate against each of the taxes enumerated in subsection (B) in an amount equal to twenty percent of the additional tax revenue paid by the taxpayer in regard to those taxes as determined by the Department of Revenue if the taxpayer has made a qualifying capital investment in the business location where the additional tax revenue was generated, which location must be engaged primarily in the sale of tangible personal property at retail and for which the taxpayer holds a state retail sales tax license.

(D) For purposes of determining the amount of sales or income taxes paid at a particular location where the qualifying capital investment pertains to the expansion of an existing business location, the ratio of the square footage of the expansion as compared to the overall square footage of the location, multiplied by the total sales or income taxes paid, is considered to be the amount of new sales or income tax revenue generated.

(E) The department may require information and submissions by the taxpayer as it considers appropriate in relation to a taxpayer’s claim of entitlement to the credit. The department in implementing the tax credits or rebates authorized by this section may permit the taxpayer to claim the credit or rebate on the sales tax or income tax return or property tax payment filed by the taxpayer.

(F) The merger, consolidation, or reorganization of a corporation where tax credits or rebates provided by this section survive does not create new eligibility in a succeeding corporation, but unused credits or rebates may be transferred and continued by the succeeding corporation. In addition, a corporation or partnership may assign its rights to its unused credit or rebate to another corporation or partnership if it transfers all, or substantially all, of the assets of the corporation or partnership or all, or substantially all, of the assets of the trade or business or operating division of the corporation or partnership to another corporation or partnership.

(G) In regard to the rebatement of ad valorem property taxes provided for by this section, a taxpayer must file a claim for rebatement with the appropriate local property tax officials after the property taxes for a particular year have been paid and once the amount of the rebate is determined. The property tax rebate under this section will be treated as though it was an exemption from the property tax.

(H) Notwithstanding the amount of the credits allowed by this section, any income tax credits, when combined with any other state income tax credits allowed the taxpayer for a particular taxable year, cannot reduce the taxpayer’s South Carolina income tax liability more than fifty percent for that year. In addition, the credits or rebates authorized by this section are in lieu of any other applicable income tax credits or rebates allowed by state law, and in the event of an overlap or conflict in available credits or rebates to a taxpayer, the taxpayer must select the credit or rebate the taxpayer desires in the manner prescribed by the Department of Revenue to the extent the credits or rebates conflict or overlap. Finally, the total amount of all tax credits or rebates allowed by this section for all years may not exceed in the aggregate the total capital investment made by the taxpayer which gave rise to the credits or rebates.

(I) A taxpayer, beginning with tax years which commence on or after January 1, 2019, for which qualifying capital investments were made on or after January 1, 2018, may claim the tax credits or rebates authorized by this section.

(J) The tax credits or rebates authorized by this section expire at the end of the fifth calendar year following the year the qualifying capital investments were made. Nothing in this section prevents new tax credits or rebates for subsequent qualifying capital investments.”

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

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