Bill Number:	S.1152 Introduced on March 10, 2020
Author:	Leatherman
Subject:	Income Tax Conformity
Requestor:	Senate Finance
RFA Analyst(s):	Jolliff
Impact Date:	March 11, 2020

Fiscal Impact Summary

This bill will not impact expenditures for the Department of Revenue (DOR) to update conformity to the Internal Revenue Code (IRC).

The bill is expected to reduce General Fund individual income tax revenue by $12,984,000 and corporate income tax revenue by $820,000, for a total reduction of $13,804,000 in FY 2020-21.

Explanation of Fiscal Impact

Introduced on March 10, 2020
State Expenditure
This bill updates South Carolina's conformity to the IRC through December 31, 2019. These activities are a continuation of DOR's current responsibilities and will not have an expenditure impact on the General Fund, Federal Funds, or Other Funds.

State Revenue
This bill amends Section 12-6-40 to update South Carolina's conformity to the IRC through December 31, 2019. Currently, South Carolina conforms to the IRC as amended through December 31, 2018 and any provisions extended, but otherwise not amended, by congressional enactment during 2019. Research by DOR indicates that three subparts of the Consolidated Appropriations Act (PL 116-95) include changes that will affect South Carolina. These three subparts include the Bipartisan American Miners Act of 2019, which includes one provision affecting the minimum age for in-service distributions, the Setting Every Community Up for Retirement Act of 2019 (SECURE ACT), which includes provisions affecting retirement accounts, and the Taxpayer Certainty and Disaster Relief Act of 2019, which includes tax extenders and disaster provisions.

This legislation also adopts provisions of the federal IRC previously adopted by the State in the event any section that expired in 2019 is extended, but not otherwise amended, by the federal government during 2020. The Taxpayer Certainty and Disaster Relief Act of 2019 provisions addressed the items that would have expired in 2019.

Revenue and Fiscal Affairs (RFA) utilizes U.S. estimates by the Joint Committee on Taxation and adjusts those estimates to project the impact of adopting these federal provisions on South Carolina. Further, based upon research by RFA and discussions with the Department of Revenue

(DOR) and the South Carolina Association of CPAs (SCACPA), RFA made further adjustments to improve the accuracy of these estimates with respect to South Carolina.

Thirty-five provisions below would affect South Carolina if the state conforms to the federal income tax code. One provision that lowers the threshold for the deduction for medical expenses from 10 percent of adjusted gross income to 7.5 percent was in effect for tax years 2017 and 2018 and is extended. This provision is included in the current forecast by the Board of Economic Advisors, as the forecast expectation is that this provision would be extended. Therefore adopting this provision has no effect on the revenue forecast.

The potential impact of the remaining thirty-four provisions is outlined by tax year in the table below and by detailed provision in the attached Figure 1. In addition to impacting tax filings for tax year 2019 and beyond, certain provisions are retroactive to tax year 2018. Further, certain provisions are temporary, and therefore, the impact in future years will be reflective of tax year 2020.

Potential Impact by Tax Year	**Tax Year 2018**	**Tax Year 2019**	**Tax Year 2020**
Individual Income Tax Total	($4,047,460)	($16,260,984)	($4,870,796)
Corporate Income Tax Total	($540,401)	($364,661)	($188,921)
Total Individual and Corporate Income Tax	($4,587,861)	($16,625,645)	($5,059,717)

To claim the tax adjustments for the retroactive provisions for tax year 2018 taxpayers would need to file an amended return. We do not anticipate that all taxpayers will file an amended return for tax year 2018, as this would incur additional expenses for tax preparation, which may outweigh the tax reduction, and extend the statute of limitations for audits. However, all taxpayers are eligible to file an amended return, and we have included the full amount in the anticipated impact for FY 2020-21.

The realized impact on revenue as a result of provisions affecting tax year 2019 may also be less than the potential impact shown above because individual income tax filers may be claiming these provisions inadvertently in filings during FY 2019-20. Given that these provisions are included for federal individual income tax returns, tax preparation software may not be equipped to allow filers to make adjustments to state returns for these limited federal provisions that South Carolina has not adopted. Taxpayers may also be unaware of the need to make these adjustments as guidance regarding South Carolina not adopting these provisions is limited. We would expect that since these provisions are included on federal tax filings for tax year 2019, as much as 75 percent of this impact for individual income tax may already be included in April 2020 tax filings and revenue collections for FY 2019-20. This would leave approximately 25 percent of the individual income tax impact, or $4,065,246, that may occur in FY 2020-21 if taxpayers file extensions to October 2020 and receive a refund.

The estimated impact for tax year 2020 of $5,059,717 will be realized during FY 2020-21 and beyond during normal tax filings.

In summary, the bill is expected to reduce General Fund individual income tax revenue by $12,984,000 and corporate income tax revenue by $820,000, for a total reduction of $13,804,000 in FY 2020-21. This impact is outlined below.

Estimated General Fund Impact in FY 2020-21

	Tax Year 2018	**Tax Year 2019**	**Tax Year 2020**	**FY 2020-21 Impact** *Rounded to 1000s*
Individual Income Tax Total	($4,047,460)	($4,065,246)	($4,870,796)	**($12,984,000)**
Corporate Income Tax Total	($540,401)	($364,661)	($188,921)	**($820,000)**
Total Individual and Corporate Income Tax	($4,587,861)	($4,429,907)	($5,059,717)	**($13,804,000)**

Local Expenditure
N/A

Local Revenue
N/A

Figure 1. Potential Impact of Federal Tax Provisions

Line	Provision	IRC §	Individual or Corporate	TY 2018	TY 2019	TY 2020
1	**Reduction in minimum age for allowable in-service distributions for miners-** Reduces age from 62 to 59 ½ for certain distributions from retirement plans	401(k), 457	I		$456,698	$670,315
2	**Multiple employer plans and pooled employer plans reporting** - Provides administrative simplification for multi-employer plans to make it easier for small businesses to offer such plans to their employees. For plan years beginning after December 31, 2020.	413(e)(l)	I		($71,206)	($181,697)
3	**Non-Tuition Fellowship and Stipend Payments** - treated as compensation for IRA purposes.	219(F)(l)	I		($123)	($123)
4	**Repeal of maximum age for traditional** IRA **contributions** - IRA contributions can be made after age 70 ½. This provision does not apply to Roth IRAs and special rules apply to Qualified Charitable Distributions from IRAs.	219(d)(l) 408(d)	I		($9,821)	($17,188)
5	**Elective deferrals allowed for certain part-time employees** - Requires a 401(k) plan to allow an employee who has worked with an employer at least 500 hours per year for the 3 consecutive year period who has turned 21 by the end of the 3 consecutive years to participate in the plan..	401(k)	I		$0	($66,295)
6	**Increases age for required minimum distributions to 72 for IRAs and employer-sponsored plans.**	401, 403, 457	I		($1,809,604)	($2,133,712)
7	**Special rules for minimum funding standards for community newspaper plans (serves populations of less than 100,000).**	430(m)	I		$123	$123
8	**Home health care workers "difficulty of care" payments** - These payments are treated as compensation for purposes of calculating the contributions limits to defined contribution plans and IRAs. Applies to defined contribution plan years beginning after December 31, 2015 and IRA contributions after December 20, 2019.	415,408	I		($24,554)	($17,188)
9	**Administrative Provisions** - Allows businesses to treat qualified retirement plans adopted before the due date of tax return (including extensions) as adopted on the last day of the tax year. For plans adopted for tax years beginning after December 31, 2019.	401	I		$0	($22,098)

Line	Provision	IRC §	Individual or Corporate	TY 2018	TY 2019	TY 2020
10	**Benefits for Volunteer Firefighters and Emergency Medical Responders** - Reinstates for one year the exclusions for qualified State or local tax benefits and qualified reimbursement payments provided to volunteer emergency response organizations (generally a property tax reduction). Increases the exclusion for qualified reimbursement payment to up to $50 for each month during which a volunteer provides services. Exclusion only applies to tax years beginning during 2020.	139B	I		($61,384)	($19,643)
11	**Expansion of Section 529 Plans** - Expands 529 plans to cover costs associated with apprenticeships and up to $10,000 of qualified student loan repayments (principal or interest) For loan repayments, amounts can be distributed to a sibling of a designated beneficiary. The deduction for interest paid by the taxpayer during the tax year on a qualified education loan is disallowed to the extent the interest was paid from a tax-free distribution from a 529 Plan.	529, 22l(e)(l)	I		($56,473)	($46,652)
12	**Post-death required minimum distribution rules changed** - For employees or IRA owners that die, remaining account balance must generally be distributed to designated beneficiaries within 10 years of date of death. There are exceptions to this requirement for certain individuals including surviving spouse and child who has not reached majority. Effective for employees or IRA owners who die after December 31, 2019.	401(a)(9)	I		$520,537	$1,578,800
13	**Extension and modification of exclusion from gross income of discharge of qualified principal residence indebtedness** - Extends through 2020 the exclusion from gross income of a discharge of qualified principal residence indebtedness. The Act also provides that mortgage debt discharged is eligible for exclusion as long as it was pursuant to an arrangement entered into and evidenced in writing before January 1, 2021. Effective for discharges of indebtedness after December 31, 2017.	108(a)(l)(E)	I	($2,101,793)	($1,868,533)	($1,635,273)
14	**Extension of mortgage insurance premiums treated as qualified residence interest** - Extends through 2020 the treatment of qualified mortgage insurance premiums as interest for purposes of the mortgage interest deduction, subject to the existing phase-out rules. Effective for amounts paid or accrued after December 31, 2017.	l 63(h)(3)	I	($553,685)	($564,488)	($575,292)

Line	Provision	IRC §	Individual or Corporate	TY 2018	TY 2019	TY 2020
15	**Extension of above-the -line deduction for qualified tuition and related expenses -** Extends through 2020 the above-the-line tax deduction for qualified education expenses. The deduction is capped at $4,000 for an individual whose adjusted gross income (AGI) does not exceed $65,000 ($130,000 for joint filers) or $2,000 for an individual whose AGI does not exceed $80,000 ($160,000 for joint filers). Effective for taxable years beginning after December 31, 2017.	222(e)	I	($657,219)	($543,454)	($429,689)
16	**Extension of 7-year recovery period for motorsports entertainment complexes** - Extends through 2020 the special 7-year cost recovery period for property used for land improvement and support facilities at motorsports entertainment complexes. Effective for property placed in service after December 31, 2017.	168(i) (15)	I	($81,027)	($90,849)	($100,670)
17	**Extension and modification of accelerated depreciation for business property on an Indian reservation** - Extends through 2020 the placed-in-service date for the special depreciation recovery period for qualified Indian reservation property. The Act also provides an election out of the accelerated depreciation rules. Effective for property placed in service after December 31, 2017.	168(j)	I	($69,569)	($72,843)	($76,116)
18	**Extension of special expensing rules for certain film and television productions; special expensing for live theatrical productions** - Extends through 2020 the provision that allows film and television producers to expense the first $15 million of production costs incurred in the United States. Additionally, the Act modifies the special expensing rules to include certain live theatrical productions. Generally effective for productions commencing after December 31, 2017.	181	I	($323,372)	($90,603)	$142,166
19	**Extension and modification of empowerment zone tax incentives -** Extends through 2020 the designation of certain economically depressed census tracts as empowerment zones. The tax benefits available include tax-exempt bonds, employment credits (which are increased IRC §38 credits that SC does not adopt), liberalized Code Section 179 expensing, and gain exclusion from the sale of certain small-business stock.	1391(d); 1394(b); 1396 (wage credit, not adopted); 1397B	I	($260,796)	($230,277)	($199,759)

Line	Provision	IRC §	Individual or Corporate	TY 2018	TY 2019	TY 2020
20	**Extension and modification of energy efficient commercial buildings deduction -** Extends through 2020 the deduction for energy efficiency improvements to lighting, heating, cooling, ventilation, and hot water systems of commercial buildings. Effective for property placed in service after December 31, 2017.	179D	C	($153,407)	($90,433)	($27,459)
21	**Extension of special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities** - Extends through 2020 the present law deferral of gain on sales of transmission property by vertically integrated electric utilities to FERC-approved independent transmission companies. Rather than recognizing the full amount of gain in the year of sale, this provision allows gain on such sales to be recognized ratably over an 8-year period. Effective for dispositions after December 31, 2017.	451(i)	C	($310,474)	($154,139)	$2,197
22	**Penalty Waiver and Re-contribution of Certain Plan Withdrawals** - Provides an exception to the 10% early retirement plan withdrawal penalty for qualified disaster relief (not to exceed $100,000 in cumulative qualified hurricane distributions) (SC does not adopt this penalty provision). Allows re-contribution of retirement plan withdrawals for home purchases canceled due to eligible disasters and allows flexibility for loans from retirement plans for qualified hurricane relief.	72(t)	I		($518,082)	($346,207)
23	**Temporary suspension on limitations on charitable contributions associated with qualified disaster relief.**	170	I		($5,161,296)	$2,244,253
24	**Special rules for qualified disaster related personal casualty losses -** Eliminates the requirement that personal casualty losses must exceed 10% of adjusted gross income to qualify for deduction and eliminates requirement that taxpayers must itemize deductions to deduct these casualty losses.	165	I		($6,064,752)	($3,638,851)
25	**Modifies definition of income used to determine the tax-exempt status of mutual or cooperative telephone or electric companies** - Excludes certain government grants, contributions and assistance from definition.	501(c)	C	($732)	($1,465)	($2,197)
26	**Repeals increase in unrelated business income for certain fringe benefit expenses -** Eliminates the "church parking tax." Applies to amounts paid or incurred after December 31, 2017.	512(a)(7)	C	($75,788)	($118,625)	($161,461)

Line	Provision	IRC §	Individual or Corporate	TY 2018	TY 2019	TY 2020
27	**Individual Income Tax Total***			**($4,047,460)**	**($16,260,984)**	**($4,870,796)**
28	**Corporate Income Tax Total***			**($540,401)**	**($364,661)**	**($188,921)**
29	**Total Individual and Corporate Income Tax***			**($4,587,861)**	**($16,625,645)**	**($5,059,717)**
30	***Note: Estimates on lines 27-29 above are BEFORE adjustments. See Estimated Impact in FY 2020-21 table above for estimated impact with adjustments. Line item adjusted estimates are unavailable.**					
31	**PROVISIONS WITH NO FISCAL IMPACT**					
32	**Increase in default cap for automatic enrollment safe harbor from 10% to 15% after the first year**	401(k)		No impact	No impact	No impact
33	**401(k) Safe Harbor rules simplified** - eliminates certain notice requirements for non-elective 401(k) safe harbor plans.	401(k)		No impact	No impact	No impact
34	**Plan loans distributed through credit cards or similar arrangements** - These arrangements do not meet the requirements for loan treatment and are treated as deemed distributions. Applicable after December 20, 2019.	72(p)		No impact	No impact	No impact
35	**Portability of lifetime income options** - Allows new choices where a lifetime income investment is no longer authorized to be held as an investment option by qualified defined contribution plans.	401, 403, 457		No impact	No impact	No impact
36	**Treatment of custodial accounts on termination of Section 403(b) Plans** - IRS is directed to issued guidance to later than June 20, 2020 regarding these terminations.	403		No impact	No impact	No impact
37	**Retirement income account rules for church-controlled organizations** - Clarifies which individuals can be covered. Applies to tax years before, on, or after December 20, 2019.	403		No impact	No impact	No impact
38	**Modification of non-discrimination rules for closed plans to permit existing participants to continue to accrue benefits** - Designed to protect older, longer service employees.	401		No impact	No impact	No impact
39	**Extension of classification of certain race horses as 3-year property** - Extends through 2020 the 3-year recovery period for race horses. Effective for property placed in service after December 31, 2017.	168(e)(3)(A)		No impact	No impact	No impact

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