



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE

STATEMENT OF ESTIMATED FISCAL IMPACT

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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number:	H. 4017	Signed by Governor on May 18, 2021
Author:	Simrill	
Subject:	Income Tax Conformity	
Requestor:	House of Representatives	
RFA Analyst(s):	Jolliff	
Impact Date:	July 15, 2021	

Fiscal Impact Summary

This bill updates South Carolina's conformity to the Internal Revenue Code (IRC) through December 31, 2020. The Department of Revenue (DOR) will administer the changes to income tax provisions with existing staff and resources. Further, the bill directs the Department of Administration's Executive Budget Office (EBO) to transfer funds from the American Rescue Plan Act of 2021 to the appropriate fiscal years to offset the unemployment compensation income tax exemption. We anticipate that EBO will work with DOR to allocate these funds appropriately. Therefore, the bill is not expected to impact expenditures for either agency.

The bill conforms to the IRC with the exception of specific provisions. Further, the bill allows taxpayers to exclude up to \$10,200 of unemployment compensation from income taxes for tax year 2020. This unemployment compensation exemption is the only adopted provision that will impact revenue, and it will reduce individual income tax revenue by \$61,300,000. As the exemption only applies to tax year 2020, the impact is a one-time, non-recurring reduction. This impact may occur in FY 2020-21 or be extended to FY 2021-22 if taxpayers file for an extension or have already filed their state income taxes and do not file an amended return until after June 30, 2021. The bill directs the Executive Budget Office to allocate \$61,300,000 from the American Rescue Plan Act of 2021 to the General Fund in the appropriate fiscal years to account for this exemption. Therefore, there is no net impact to the General Fund as a result of this bill.

For reference, Table 1 lists the provisions affecting revenue that are either adopted or not adopted. Tables 2 and 3 list the changes that have either been incorporated in or are already affecting revenue currently and would not have further impact on revenue.

Explanation of Fiscal Impact

Signed by Governor on May 18, 2021

State Expenditure

This bill updates South Carolina's conformity to the IRC through December 31, 2020. DOR will administer the changes to income tax provisions with existing staff and resources. Therefore, the bill is not expected to impact expenditures for the agency.

The bill also directs EBO to allocate \$61,300,000 from the American Rescue Plan Act funds to the General Fund in the appropriate fiscal years to offset the revenue impact of the unemployment compensation income tax exemption. We anticipate that EBO will work with DOR to determine how to allocate these funds to offset the exemption. Therefore, the bill is not expected to impact expenditures for either agency.

State Revenue

This bill updates South Carolina's conformity to the IRC through December 31, 2020. In addition, this bill proactively adopts any expired provisions of the federal code that are extended, but not otherwise amended, by congressional enactment during 2021.

Research by DOR identified four federal tax laws enacted by Congress that impact South Carolina's conformity through December 31, 2020.

- Families First Coronavirus Response Act (Families First Act) (PL 116-127) enacted on March 18, 2020
- Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (PL 116-136) enacted on March 27, 2020
- Paycheck Protection Program Flexibility Act of 2020 (PPPF Act) (PL 116-142) enacted on June 5, 2020
- Consolidated Appropriations Act of 2021 (CAA of 2021) (PL 116-260) enacted on December 27, 2020

Further, the bill adds additional language in Section 1 (B) to specify that South Carolina adopts the federal tax treatment for any exclusion from federal taxable income or allowance of expenses as provided in the CAA of 2021. As these provisions are not codified in the IRC, these additional sections of the bill allow for administration of the provisions. S.C. Act 147 of 2020, which adopted IRC conformity through December 31, 2019, specifically provides that for tax year 2020 paycheck protection program (PPP) loans that were forgiven and excluded from gross income under the CARES Act are excluded for South Carolina income tax purposes and to the extent the federal government allows the deduction for expenses associated with the forgiven PPP loans, these expenses will be allowed as a deduction for South Carolina income tax purposes. The bill adopts this federal tax treatment for 2021 as allowed by the CAA. As the provisions were adopted in Act 147 for 2020 and these special provisions are a unique event not typically in the revenue stream, extending this treatment to 2021 will not affect the current revenue forecast. These provisions are noted in Section B of Table 1 and have no effect on revenue.

Section 2 of the bill lists specific provisions that are not adopted. Section 3 adopts the amendment in the American Rescue Plan of 2021 that exempts up to \$10,200 of unemployment compensation from income taxes. Under state law, unemployment compensation is taxable for state individual income taxes, and the bill would exempt the first \$10,200 for tax year 2020 only.

To estimate the impact of conforming to IRC changes, 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 DOR and the South Carolina Association of CPAs (SCACPA), RFA made additional adjustments to refine these estimates with respect to South Carolina. Additionally, the S.C. Department of Employment and Workforce (DEW) provided data on unemployment compensation paid in 2020.

The provisions affecting South Carolina in these federal law changes are listed separately in Tables 1, 2, and 3 based upon their effect on revenues. Provisions that would affect revenue if adopted are listed in Table 1. The bill specifically does not adopt most of these provisions.

However, adopting the unemployment compensation exemption for tax year 2020 would reduce individual income tax revenue. Based upon data provided by DEW and estimates by the Joint Committee on Taxation, the estimated reduction in individual income tax revenue is approximately \$61,300,000. Because this provision only applies to tax year 2020, the impact is a one-time, non-recurring reduction. In order to claim the exemption, taxpayers who have already filed their tax return will need to file an amended return. Therefore, this impact may occur in FY 2020-21 or be extended to FY 2021-22 if taxpayers file for an extension or have already filed their state income taxes and do not file an amended return until after June 30, 2021. The bill directs the Executive Budget Office to allocate \$61,300,000 from the American Rescue Plan Act of 2021 to the General Fund to in the appropriate fiscal years to account for this exemption. Therefore, there is no net impact to General Fund revenue as a result of this exemption.

The CAA also extended certain provisions that have been regularly extended by Congress. The extended provisions are listed in Table 2. These provisions are included in the current forecast by the Board of Economic Advisors, as the forecast expectation was that these provisions would be extended. Therefore, there is no revenue impact as a result of adopting these extended provisions. If South Carolina does not adopt the provisions, however, revenue would increase as the reductions are already in the forecast.

Table 3 provides information on those provisions that DOR advises us they believe are already affecting South Carolina regardless of conformity to the IRC because federal law determines how these provisions are implemented, and they cannot be avoided. Essentially, the change in revenue resulting from these provisions will occur regardless of whether South Carolina adopts this bill to extend conformity to 2020. Many of these provisions are already affecting revenues and will be accounted for by the Board of Economic Advisors in the revenue forecast.

Notably, Congress passed the American Rescue Plan Act of 2021 (PL 117-2) on March 11, 2021, which includes additional federal stimulus programs and other provisions. Because the Act passed after December 2020, this bill does not address these provisions with the exception of the unemployment exemption specifically adopted in Section 3.

Local Expenditure

N/A

Local Revenue

N/A

Table 1. Provisions Affecting Revenue – Bill as Signed by the Governor

Line	Provision	IRC §	Individual or Corporate		FY 2021-22	FY 2022-23	
1	\$300 charitable deduction allowed without itemizing deductions in 2020 (See also Line 2)	62	I		(\$3,808,000)	\$0	Not Adopted
2	Certain charitable contributions deductible by non-itemizers in 2021 (\$300/\$600 married joint) (See also Line 1)	170	I		(\$7,035,000)	\$0	Not Adopted
3	Modification of limits on charitable contributions for 2020 (See also Line 4)	170	I/C		(\$10,498,000)	\$5,225,000	Not Adopted
4	Temporary modification of limitations on charitable contributions for 2021 (See also Line 3)	170	I/C		(\$7,000,000)	\$3,481,000	Not Adopted
5	Modifications to income limitations for net operating losses for 2018, 2019, and 2020 (Carrybacks not allowed by SC)	172	I	*	(\$38,577,000)	\$1,363,000	Not Adopted
6	Modification of limitation on losses for non-corporate taxpayers in 2018, 2019, and 2020	461(1)	I	*	(\$172,070,000)	\$729,000	Not Adopted
7	Personal protective equipment expenses included in educator expense deduction (DOR recommends adopting)	62(a)(2)(D)	I		(\$5,000)	(\$5,000)	Not Adopted
8	Temporary allowance of full deduction for business meals through 2022	274(n)	I		(\$5,483,000)	(\$6,176,000)	Not Adopted
9	Special rules for qualified disaster relief charitable contributions	170	I		(\$195,000)	\$68,000	Not Adopted
10	Special rules for qualified disaster-related personal casualty losses	165	I		(\$3,312,000)	(\$1,019,000)	Not Adopted
Section 1(B) of H. 4017- Additional Changes to Section 12-6-40(A)(1)							
11	Small Business Association loan forgiveness				\$0	\$0	
12	Emergency financial aid grants to students not included in gross income		I		\$0	\$0	
13	Clarification of loan forgiveness and other business financial assistance				\$0	\$0	
Section 3 of H. 4017- Adopt American Rescue Plan of 2020 Provision							
14	Exempt \$10,200 of unemployment compensation for tax year 2020		I		(\$61,300,000) <i>See impact for timing</i>		
Individual Income Tax					(\$61,300,000)	\$0	
Corporate Income Tax					(\$0)	\$0	
Total Provisions Affecting Revenue					(\$61,300,000)	\$0	

* Applies to tax years 2018, 2019, and 2020

Table 2. Provisions Extended - Currently in Revenue Forecast

Line	Provision	IRC §	Individual or Corporate		FY 2021-22	FY 2022-23
15	Energy efficient commercial buildings deduction modified and made permanent	179D	I		(\$174,000)	(\$174,000)
16	Benefits provided to volunteer firefighters and emergency medical responders made permanent	139B	I		(\$174,000)	(\$177,000)
17	Permanent extension of medical expense deduction for expenses in excess of 7.5% of AGI	213(f)	I		(\$2,425,000)	(\$2,422,000)
18	Modification and extension of exclusion from gross income for discharge of qualified principal residence indebtedness	108	I		(\$1,316,000)	(\$1,355,000)
19	Extension of 7-year recovery period for motorsports entertainment complexes through 2025	168(i)(15)(D)	I		(\$86,000)	(\$98,000)
20	Extension of expensing rules for certain film, television, and live theatrical productions	181	I		(\$2,018,000)	(\$1,002,000)
21	Extension of certain empowerment zone tax incentives	1391, 1397A, 1397B	I		(\$638,000)	(\$660,000)
22	Extension of exclusion from income certain employer payments of student loans	127	I		(\$1,571,000)	(\$1,660,000)
23	Extension of mortgage insurance premiums treated as qualified residence interest through 2021	163(h)(3)	I		(\$432,000)	\$0
24	Extension of classification of certain racehorses as 3-year property for depreciation purposes	168(e)(3)(A)	I		\$0	\$0
25	Extension of accelerated depreciation for business property on Indian reservations	168(j)	I		(\$34,000)	(\$22,000)
Total of Extended Provisions Currently in Revenue Forecast					(\$8,868,000)	(\$7,570,000)

Table 3. Other Provisions for Information Only - Largely Already Affecting Revenue

Line	Provision	IRC §	Individual or Corporate		FY 2021-22	FY 2022-23
26	Employee income exclusion for certain employer payments of student loans	127	I		(\$1,129,000)	\$0
27	Special rules for retirement plans	72(t), 401, 402, 403, 408, 457	I		(\$239,644)	(\$40,882)
28	Temporary waiver of required minimum distribution rules for certain retirement plans and accounts for 2020	401, 402, 403, 408, 457	I		(\$28,786,702)	\$2,266,302
29	Technical amendments to TCJA regarding qualified improvements to property	168	I		\$0	\$0
30	Single-employer delay in minimum contribution funding for defined benefit plans	430(j), 436	I		\$13,047,811	(\$1,018,977)
31	New pension plan rules applied to certain charitable employers	414(y)	I		(\$2,455)	(\$2,455)
32	Health Saving Account (HAS) exemption for telehealth services	223	I		\$0	(\$159,599)
33	Inclusion of certain over-the-counter medical products as qualified medical expenses	106, 220, 223	I		(\$137,500)	(\$1,227,683)
34	Application of special rules to money purchase pension plans	no section	I		(\$174,331)	(\$36,830)
35	2020 election to terminate transfer period for qualified transfers from pension plans	420(f)	I/C		\$130,470	\$102,201
36	Beer, wine and distilled spirits - exempt aging process from certain inventory capitalization rules.	239A(f)(4)	I		(\$37,000)	(\$32,000)
37	Repeal of deduction for higher education qualified tuition and related expenses for tax years beginning after 2020	222	I		(\$3,167,421)	(\$3,075,345)
38	Minimum age for distribution during working retirement	401(a)(36)	I		\$0	\$0
39	Temporary rule preventing partial plan termination	411(d)(3)	I		\$0	\$0
40	Temporary rules for health and dependent care flexible suspending arrangements	125	I		\$93,000	\$39,000
41	Disaster related rules for use of retirement funds	72(t), 401, 402, 403, 408, 457	I		(\$67,523)	(\$15,960)

Total Provisions for Information Only**(\$20,470,296) (\$3,202,227)**


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