

Statement of Estimated State Revenue Impact

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Bill Number: S.953

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Committee Requesting Impact: Senate Finance

Bill Summary

TO AMEND SECTION 12-6-40, AS AMENDED, 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 THE YEAR 2013 AND TO PROVIDE THAT ANY INTERNAL REVENUE CODE SECTIONS ADOPTED BY THE STATE THAT EXPIRED ON DECEMBER 31, 2013, THAT ARE EXTENDED BY CONGRESSIONAL ENACTMENT IN 2014 ARE ALSO EXTENDED FOR SOUTH CAROLINA INCOME TAX PURPOSES.

REVENUE IMPACT ^{1/}

We expect that updating conformity to the Internal Revenue Code in §12-6-40(A)(1)(a) through the end of 2013 will have no revenue impact on General Fund income tax revenue in FY 2014-15. We also expect no revenue impact from potential federal actions that retroactively reinstate or extend any Internal Revenue Code sections previously adopted by the State that expired on December 31, 2013.

Explanation

This bill updates South Carolina's conformity to the Internal Revenue Code (IRC) through December 31, 2013. Currently, the South Carolina income tax statutes conform to the IRC as amended through January 2, 2013 by the American Taxpayer Relief Act of 2012. Our research, confirmed by the Department of Revenue, finds that no federal tax law changes were enacted during 2013 subsequent to the American Taxpayer Relief Act of 2012. We, therefore, expect that updating conformity in §12-6-40(A)(1)(a) through the end of 2013 will have no revenue impact on General Fund income tax revenue in FY 2014-15.

This legislation in §12-6-40(A)(1)(c) also adopts expired provisions of the federal IRC previously adopted by the State in the event any of these expired sections are extended, but not otherwise amended, by the federal government in 2014. This amendment proactively adopts these expired provisions in the event Congress retroactively reinstates these enhanced deductions and exclusions from income. This added language is a result of the U.S. Congress allowing fifty-five federal tax provisions to expire on December 31, 2013. If Congress does not reinstate these provisions, the twenty-four provisions that impact South Carolina taxpayers will increase South Carolina General Fund income tax revenue in FY 2014-15 regardless of whether we update conformity through December 31, 2013.

These twenty-four temporary provisions have generally been in the Internal Revenue Code for years and are routinely extended as they were most recently extended in the American Taxpayer Relief Act of 2012. While Congress is expected to address these expired provisions at some point in 2014, they have legally expired and South Carolina could expect an increase in income tax collections as the result of their expiration regardless of whether South Carolina adopts conformity. The attached table provides a brief summary of the

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twenty-four provisions including their expected income tax revenue impacts that total \$28,324,983 in FY 2014-15.

In November 2013 when the Board of Economic Advisors (BEA) set the initial forecast for FY 2014-15, the expectation was that Congress would likely extend these expiring federal tax provisions. The BEA General Fund forecast included the revenue impact of extending these provisions as part of the income tax base since most of these provisions have been in effect for many years.

At this point, we believe this issue is still unresolved at the federal level and the Board of Economic Advisors has not decided whether to incorporate the revenue impact of these expired provisions in the forecast for FY 2014-15.

We expect no revenue impact from federal actions that retroactively reinstate or extend the expired provisions. In other words, if Congress reauthorizes or extends these items in 2014 with no amendments, then the \$28,324,983 estimated revenue increase would not be realized. The BEA will continue to monitor this situation and any adjustment to the FY 2014-15 revenue forecast will be addressed later in the legislative session based on any federal or state legislation.

	2013 Expiring Federal Tax Provisions that Impact South Carolina State Income Tax Revenue in FY 2014-15	First Enacted	FY 2014-15 General Fund Income Tax Revenue Increase
1	Tax credit for research and experimentation expenses (SC credit uses federal credit to calculate SC tax liability reduction, without federal credit the state credit is limited to credits earned in previous years and carried forward due to lack of tax liability)	1981	\$ 12,943,739
2	Increase in section 179 expensing amounts and threshold limits to \$500,000/\$2,000,000. In 2014 limitations would revert back to \$25,000 with a \$200,000 investment limit without further federal legislation.	2003	\$ 5,650,668
3	Deduction for qualified tuition and related expenses	1978	\$ 2,449,170
4	Discharge of indebtedness on principal residence excluded from gross income of individuals	2007	\$ 1,814,352
5	Tax free distributions from IRA's to certain public charities for individuals aged 70-1/2 or older, not to exceed \$100,000 per taxpayer per year; special transition rules for certain distributions made in December 2012 and January 2013	2006	\$ 1,259,040
6	Premiums for mortgage insurance deductible as interest that is qualified residential interest	2006	\$ 947,100
7	15 year straight line cost recovery for qualified leasehold, restaurant, and retail improvements	2004	\$ 704,598

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	2013 Expiring Federal Tax Provisions that Impact South Carolina State Income Tax Revenue in FY 2014-15	First Enacted	FY 2014-15 General Fund Income Tax Revenue Increase
8	Above the line deduction of up to \$250 for teacher classroom expenses	2002	\$ 610,618
9	Special rule for sales or dispositions to implement Federal Energy Regulatory Commission or state electric restructuring policy	2004	\$ 359,690
10	Extension of energy efficient commercial buildings deduction	2006	\$ 218,090
11	Basis adjustment to stock of S corporations making charitable contributions of property	2006	\$ 206,729
12	Placed in service date for partial expensing of certain refinery property	2005	\$ 196,281
13	Change the depreciation classification for race horses that are two years old or younger from seven-year property to three-year property	2008	\$ 190,049
14	Enhanced charitable deduction for contributions of food inventory	2005	\$ 175,377
15	Reduction in recognition period for S corporation built in gains tax	2009	\$ 142,982
16	Contributions of capital gain real property made for qualified conservation purposes	2006	\$ 96,881
17	Extends income exclusion for employer provided mass transit and parking benefits	2009	\$ 74,470
18	Empowerment zone tax incentives	1993	\$ 67,693
19	Accelerated depreciating for business property on Indian reservations	1993	\$ 60,970
20	7 year recovery period for certain motorsports racing facilities	2004	\$ 51,384
21	Special expensing rules for certain film and television productions	2004	\$ 34,894
22	Election to expense advanced mine safety equipment	2006	\$ 28,724
23	Modify tax treatment of certain payments under existing arrangements to controlling exempt organizations	2006	\$ 22,341
24	Special rules applicable to qualified small business stock	1993	\$ 19,142
	Total		\$ 28,324,983



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¹¹ This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.