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Indicates New Matter

RECALLED

March 23, 2010

**S. 1174**

Introduced by Senators Leatherman, O’Dell and Setzler

S. Printed 3/23/10--H.

Read the first time March 10, 2010.

**A** **BILL**

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 2009; TO ADOPT THE PROVISIONS OF PUBLIC LAW 111‑126 RELATING TO THE TIMING OF DEDUCTIONS FOR CHARITABLE CONTRIBUTIONS FOR HAITI RELIEF; TO AMEND SECTION 12‑6‑50, AS AMENDED, RELATING TO PROVISIONS OF THE INTERNAL REVENUE CODE NOT ADOPTED BY STATE LAW, SO AS TO ADD PROVISIONS TO THOSE NOT ADOPTED; TO AMEND SECTION 12‑6‑3910, AS AMENDED, RELATING TO ESTIMATED STATE INCOME PAYMENTS, SO AS TO ALLOW THE DEPARTMENT OF REVENUE TO WAIVE PENALTIES ON CORPORATE TAXPAYERS WHO CALCULATE SOUTH CAROLINA ESTIMATED TAX PAYMENTS BASED ON FEDERAL ESTIMATED TAX PERIODS THAT DO NOT CONFORM TO STATE LAW; AND TO AMEND ACT 110 OF 2007 AND ACT 16 OF 2009, RELATING TO MISCELLANEOUS REVENUE PROVISIONS AND CONFORMITY OF STATE INCOME TAX LAW TO THE INTERNAL REVENUE CODE, SO AS TO DELETE OBSOLETE PROVISIONS.

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

SECTION 1. Section 12‑6‑40(A)(1)(a) of the 1976 Code, as last amended by Act 16 of 2009, is further amended to read:

“(a) Except as otherwise provided, ‘Internal Revenue Code’ means the Internal Revenue Code of 1986, as amended through December 31, ~~2008~~ 2009, and includes the effective date provisions contained in it.”

SECTION 2. Public Law 111‑126, relating to charitable deductions for Haiti relief enacted on January 22, 2010, is adopted for South Carolina income tax purposes, including the effective dates therein.

SECTION 3. A. Items (4) and (16) of Section 12‑6‑50 of the 1976 Code, as last amended by Act 16 of 2009, are further amended to read:

“(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;

(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.”

B. Section 12‑6‑50 of the 1976 Code, as last amended by Act 16 of 2009, is further amended by inserting two new items after item (5) to read:

“(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 4. Section 12‑6‑3910 of the 1976 Code, as last amended by Act 363 of 2002, is further amended by adding a new subsection at the end to read:

“(E) The department may waive estimated tax payment penalties for corporations that calculate South Carolina estimated tax payments based on a federal law that increases estimated tax payments in one estimated tax payment period and decreases estimated tax payments for one estimated tax payment period, or changes the dates estimated tax payments are due for not more than one month.”

SECTION 5. Act 110 of 2007 is amended by deleting Section 49 which reads:

“Section 49. A taxpayer must not be penalized for following the provisions of Section 401 of the federal Tax Increase Prevention and Reconciliation Act of 2005 for South Carolina purposes.”

SECTION 6. Act 16 of 2009 is further amended by deleting Section 3 which reads:

“Section 3. For purposes of Section 12‑6‑3910, as last amended by Act 363 of 2002, a taxpayer must not be penalized for following the provisions of Section 3094 of the federal Housing Economic Recovery Act of 2008 (PL 110‑289) for South Carolina purposes.”

SECTION 7. This act takes effect upon approval by the Governor.

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