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COMMITTEE REPORT

April 22, 2009

**H. 3721**

Introduced by Rep. Kirsh

S. Printed 4/22/09--S.

Read the first time April 14, 2009.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (H. 3721) 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 tax, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

HUGH K. LEATHERMAN, SR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**REVENUE IMPACT 1/**

Based on an analysis of federal law changes impacting South Carolina taxpayers by the Department of Revenue for the six tax bills enacted in 2008, we expect that the net effect of the various tax law changes will decrease general fund income tax revenue by $5,474,229 in FY 2009-10. The Board of Economic Advisors in its forecast of FY 2009-10 general fund revenues accounted for this income tax reduction in its revised estimate.

**Explanation**

This bill updates the South Carolina tax code to federal tax law changes in six bills enacted in 2008. Our analysis reports that one of the larger tax changes that will impact South Carolina income tax revenue is included in the Housing and Economic Recovery Act of 2008. This act allows an additional standard deduction for state and local property taxes of up to $500 for individuals and $1,000 for married couples for 2008 and 2009. The additional deduction is the lesser of the amount of real property taxes paid during the year or $500 or $1,000 for single and married taxpayers respectively. Non-itemizing homeowners that have paid off their mortgage and lower-income homeowners whose itemized deductions do not exceed the standard deduction are the taxpayers more likely to benefit from this additional deduction. We anticipate that this additional deduction will reduce income tax revenue by $3,652,488 in FY 2009-10. Another significant revenue impact is the temporary waiver of required minimum distribution rules for retirement accounts contained in the Worker, Retiree, and Employer Recovery Act of 2008. This waiver for 2009 suspends the required minimum distributions from tax deferred retirement savings accounts (401(k), 403(b), Individual Retirement Accounts, etc.) for taxpayers that have reached age 701/2. This will allow many retirees to avoid further depleting their retirement accounts subsequent to the massive reductions in the value of these savings that began in September 2008. We expect that this waiver will reduce South Carolina income tax revenue by $2,229,634 in FY 2009-10.

*Approved By:*

William C. Gillespie

Board of Economic Advisors

1/ 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.

**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 TAX LAWS, SO AS TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE TO THE YEAR 2008; TO AMEND SECTION 12‑6‑50, AS AMENDED, RELATING TO INTERNAL REVENUE CODE SECTIONS NOT ADOPTED BY STATE LAW, SO AS TO MAKE ADDITIONS; AND TO PROVIDE THAT A TAXPAYER WHO FOLLOWS SECTION 3094 OF THE FEDERAL HOUSING ECONOMIC RECOVERY ACT OF 2008, FOR SOUTH CAROLINA PURPOSES MUST NOT BE PENALIZED.

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 311 of 2008, 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, ~~2007~~ 2008, and includes the effective date provisions contained in it.”

SECTION 2. Section 12‑6‑50 of the 1976 Code, as last amended by Act 116 of 2007, is further amended to read:

“Section 12‑6‑50. For purposes of this title and all other titles ~~which~~ that provide for taxes administered by the department, except as otherwise specifically provided, the following Internal Revenue Code Sections are specifically not adopted by this State:

(1) Sections 1(a) through 1(e), 3, 11, and 1201 relating to federal tax rates;

(2) Sections 22 through 54, 515, 853, 901 through 908, and 960 relating to tax credits;

(3) Sections 55 through 59 relating to minimum taxes;

(4) Sections 78, 86, 87, 168(k), 168(l), 168(m), 168(n), 196, and 280C relating to dividends received from certain foreign corporations by domestic corporations, 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;

(5) Sections 72(m)(5)(B), 72(f), 72(o), 72(q), and 72(t), relating to penalty taxes on certain retirement plan distributions;

(6) Section 172(b)(1) relating to net operating loss carrybacks;

(7) Section 199 relating to the deduction attributable to domestic production activities;

(8) Sections 531 through 564 relating to certain special taxes on corporations;

(9) Sections 581, 582, and 585 through 596 relating to the taxation of banking institutions;

(10) Sections 665 through 668 relating to taxation of certain accumulation distributions from trusts;

(11) Sections 801 through 845 relating to taxation of insurance companies;

(12) Sections 861 through 908, 912, 931 through 940, and 944 through 989 relating to the taxation of foreign income;

(13) Sections 1352 through 1359 relating to an alternative tax on qualifying shipping activities;

(14) Sections ~~1401~~ 1400 through 1494;

(15) Sections 1501 through 1505 relating to consolidated tax returns; and

(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.”

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 4. This act takes effect upon approval by the Governor.

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