~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED

April 24, 2012

**H. 4996**

Introduced by Reps. Stringer, Bingham, Harrell, White, McCoy, Norman, Clemmons, Quinn, Ballentine, Ryan, Brannon, Bedingfield, Spires, Thayer, Parker, Taylor, Daning, Hearn, J.R. Smith, Patrick, Murphy, Bowen, Lowe, Nanney, Hiott, Sottile, Loftis, Allison, Atwater, Bannister, Chumley, Crosby, Delleney, Erickson, Hamilton, Hardwick, Henderson, Herbkersman, Hixon, Horne, Limehouse, Long, Merrill, D.C. Moss, V.S. Moss, Owens, Pinson, Pope, Sandifer, Simrill, G.M. Smith, G.R. Smith, Tallon, Willis, Young and Forrester

S. Printed 4/24/12--H.

Read the first time March 13, 2012.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**REVENUE IMPACT 1/**

This bill, as amended, will reduce general fund individual income tax revenue by $15,063,544 in FY 2012-13, by $15,829,621 in FY 2013-14, by $16,624,918 in FY 2014-15, and $17,450,425 in FY 2015-16 from reduced income tax payments or increased refunds. The cumulative general fund revenue individual income tax revenue reduction will total $64,968,508 by FY 2015-16.

**Explanation of Bill as Amended by Ways and Means Committee on 3/27/2012**

This bill would reduce the optional tax rate on active trade or business income received by a pass-through business from 5% to 3% over four tax years beginning in tax year 2012. The proposal lowers the current tax rate of 5% by 0.5% per year through tax year 2015. By tax year 2015, or FY 2015-16, the tax rate on active trade or business income will be 3%. At the proposed 3% tax rate, we estimate that taxpayers will report 0.5% more pass-through active trade or business income by tax year 2015. We further anticipate that active trade or business income will increase 2.4% annually based on historic Internal Revenue Service data. Based on tax year 2010 data from the Department of Revenue inflated to tax year 2015, we estimate that taxpayers will report $3,248,425,376 in pass-through active trade or business income on their income tax returns. At the current 5% tax rate, these taxpayers would remit $162,421,269 in individual income tax in FY 2015-16. At the proposed 3% tax rate, we estimate that taxpayers will remit $97,452,761 in tax on their pass-through active trade or business income, a reduction of $64,968,508 from the expected revenue at the current 5% tax rate. On an annual basis during the phase-in period, this bill, as amended, will reduce general fund individual income tax revenue by $15,063,544 in FY 2012-13, by $15,829,621 in FY 2013-14, by $16,624,918 in FY 2014-15, and $17,450,425 in FY 2015-16 from reduced income tax payments or increased refunds. The cumulative general fund individual income tax revenue reduction will total $64,968,508 by FY 2015-16.

**Active Trade or Business Income Revenue Impact for H.4996**

FY 2012-13 Number of returns filed 58,884

FY 2012-13 Total Business Income 5,275,387,584

FY 2012-13 Eligible Business Income at

5% optional rate 3,008,947,529

    FY Tax Tax Tax Paid Annual Cumulative

2012-1 Rate Paid at 5% Tax Tax

Eligible Reduction Reduction

  Business

Income

FY

13 TY 12 3,008,947,529 5.0% 150,447,376 150,447,376 base year

FY expectation

13 TY 12 3,012,708,714 4.5% 135,571,892 150,635,436 15,063,544 15,063,544

FY

14 TY 13 3,089,316,428 4.0% 123,572,657 154,465,821 15,829,621 30,893,164

FY

15 TY 14 3,167,872,138 3.5% 110,875,525 158,393,607 16,624,918 47,518,082

FY

16 TY 15 3,248,425,376 3.0% 97,452,761 162,421,269 17,450,425 64,968,508

Based on SC tax data for taxpayers currently paying the optional 5% rate on active trade or business income, we expect 0.5% more business income during the 4 year phase-in will be claimed by taxpayers at the proposed lower optional rates as the rate declines from 5% down to 3%.

We anticipate that active trade or business will grow at a rate of 2.4% annually, the historical growth rate calculated from Internal Revenue data.

**Explanation of Bill as Introduced**

This bill reduces the optional tax rate on active trade or business income received by a pass-through business from 5% to 3% beginning in tax year 2012. Based on tax year 2010 data from the Department of Revenue inflated to tax year 2012, we estimate that 58,884 taxpayers will report $3,008,947,529 in pass-through active trade or business income on their 2012 income tax returns. At the current 5% tax rate, these taxpayers would remit $150,447,376 in individual income tax in FY 2012-13. At the proposed 3% tax rate we estimate that 0.5% more pass-through active trade or business income, or $3,023,992,267, would be reported on taxpayer returns. This would generate $90,719,768 in income tax liability at the proposed 3% tax rate compared to the estimated $150,447,376 in tax at the current 5% tax rate in FY 2012-13. We expect that this bill will reduce general fund individual income tax revenue by $59,727,608 in FY 2012-13 from reduced income tax payments or increased refunds.

*Approved By:*

Frank A. Rainwater

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 12‑6‑545, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INCOME TAX RATES FOR PASS‑THROUGH TRADE AND BUSINESS INCOME, SO AS TO REDUCE THE TAX RATE FROM FIVE PERCENT TO THREE PERCENT.

Amend Title To Conform

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

SECTION 1. Section 12‑6‑545(B)(2) of the 1976 Code is amended read:

“(2) The rate of the income tax imposed pursuant to this subsection is:

Taxable Year Beginning in Rate of Tax

2006 6.5 percent

2007 6 percent

2008 5.5 percent

~~after~~ 2008 through 2011 5 percent

2012 4.5 percent

2013 4 percent

2014 3.5 percent

after 2014 3 percent”

SECTION 2. This act takes effect upon approval by the Governor.

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