**South Carolina General Assembly**

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**S. 1258**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Leatherman

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Introduced in the Senate on May 10, 2018

Currently residing in the Senate Committee on **Finance**

Summary: SC Taxpayer Protection and Relief Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

5/10/2018 Senate Introduced and read first time ([Senate Journal‑page 6](file:///h:\sj\20180510.docx))

5/10/2018 Senate Referred to Committee on **Finance** ([Senate Journal‑page 6](file:///h:\sj\20180510.docx))

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**VERSIONS OF THIS BILL**

[5/10/2018](file:///p:\pprever\2017-18\1258_20180510.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “SOUTH CAROLINA TAXPAYER PROTECTION AND RELIEF ACT”; TO AMEND SECTION 12‑6‑40, 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, AND TO PROVIDE THAT IF INTERNAL REVENUE CODE SECTIONS ADOPTED BY THIS STATE ARE EXTENDED, THEN THESE SECTIONS ALSO ARE EXTENDED FOR SOUTH CAROLINA INCOME TAX; TO AMEND SECTION 12‑6‑50, RELATING TO PROVISIONS OF THE INTERNAL REVENUE CODE NOT ADOPTED BY THIS STATE, SO AS TO NOT ADOPT CERTAIN PORTIONS CONCERNING THE STANDARD DEDUCTION, PERSONAL EXEMPTION, AND PASS‑THROUGH BUSINESS INCOME; TO AMEND SECTION 12‑6‑520, RELATING TO ANNUAL ADJUSTMENTS TO THE INCOME TAX BRACKETS, SO AS TO ADJUST THE BRACKETS USING THE CHAINED CONSUMER PRICE INDEX AND TO DELETE A PROVISION THAT LIMITS THE INFLATION ADJUSTMENT TO ONE‑HALF OF THE ACTUAL INFLATION RATE; BY ADDING SECTION 12‑6‑1145 SO AS TO CREATE A SOUTH CAROLINA STANDARD DEDUCTION AND PERSONAL EXEMPTION AND TO ADJUST THEM FOR INFLATION; TO AMEND SECTION 12‑6‑1160, RELATING TO THE ADDITIONAL DEDUCTION FOR DEPENDENTS UNDER THE AGE OF SIX, SO AS TO PROVIDE THAT THE DEDUCTION IS EQUAL TO THE AMOUNT OF THE SOUTH CAROLINA PERSONAL EXEMPTION; AND TO REPEAL THE PHASE‑IN PROCESS OF CERTAIN PORTIONS OF ACT 40 OF 2016, RELATING TO THE INCREASED EARNED INCOME TAX CREDIT AND TWO‑WAGE EARNER CREDIT.

Whereas, South Carolina enjoys one of the simplest, lowest, and most competitive state individual income tax structures and burdens in the nation; and

Whereas, according to The South Carolina Taxation Realignment Commission (TRAC) “…South Carolina is not a high individual income tax state by any honest and in‑depth measure or assessment”; and

Whereas, the South Carolina Department of Revenue also notes that “South Carolina has a simplified tax structure…”; and

Whereas, the South Carolina Revenue and Fiscal Affairs Office (RFA) concludes that “…all measures consistently find that the South Carolina individual income tax burden is one of the lowest in the nation”; and

Whereas, South Carolina’s per capita state and local individual income tax collections is ninth lowest in the nation, more than 33 percent below the national average, and below the averages of Georgia and North Carolina as well; and

Whereas, South Carolina’s actual effective individual income tax rate is also tied for ninth lowest in the nation at 2.99 percent; and

Whereas, a significant reason for South Carolina’s competitive tax advantage for its citizens compared to its neighbors and the nation was the General Assembly’s historic decision to set the state’s starting point for taxation, not at the higher federal adjusted gross income but at the substantially lower, and more taxpayer friendly, federal taxable income instead; and

Whereas, by virtue of the state’s utilization of federal taxable income as its starting point for taxation, South Carolina taxpayers presently enjoy some of the largest levels of deductions and exemptions in the nation; and

Whereas, South Carolina is one of only six states in the nation to provide its citizens this automatic built‑in tax advantage, an advantage which saves South Carolina taxpayers more than $37 billion in otherwise taxable income each year; and

Whereas, in addition to the $37 billion worth of federal deductions and exemptions to South Carolina income that the state automatically adopts each year, the General Assembly also provides an additional $16 billion in state income tax exemptions and other savings annually, most notably for taxpayers with children under the age of six, senior and retired taxpayers including military retirees, as well as capital investors and small and other businesses with active pass‑through business income, and others; and

Whereas, the United States Congress recently enacted, and the President signed, federal income tax reform legislation known as the “Tax Cuts and Jobs Act of 2017” (TCJA); and

Whereas, RFA estimates that the TCJA could, while reducing South Carolinians federal tax liability by as much as $1.6 billion across all income ranges, inadvertently cause a massive state individual income tax increase primarily on hundreds of thousands of the state’s ordinary individual income taxpayers; and

Whereas, in fact, according to RFA, the TCJA is expected to cause the largest net tax increase on South Carolina taxpayers with adjusted gross incomes of $100,000 or less, with the single largest group facing a net tax increase being taxpayers earning between $50,000 and $75,000 annually; and

Whereas, while the estimated $1.6 billion in federal tax reductions would likely offset most or all of the potential net state tax increase caused by the TCJA , the effects on the state income tax liability of thousands of the state’s ordinary individuals, especially on middle and lower income taxpayers, albeit unintended, must be mitigated to the extent possible; and

Whereas, therefore, the General Assembly finds that it must take steps to preserve, restore, and/or increase the levels and amounts of certain tax deductions and exemptions historically enjoyed by everyday ordinary South Carolina taxpayers, while preserving the state’s current tax benefits for taxpayers with children under the age of six, seniors, and military retirees, taxpayers with capital gains income as well as businesses with pass‑through income, thereby helping to preserve South Carolina’s simple, low, and competitive state individual income tax structure and burden well into the future; and

Whereas, the General Assembly also finds it an opportune time to modernize the state’s individual income tax brackets by adjusting the brackets for full inflation annually, thereby ensuring that South Carolina’s taxpayers keep more of their hard‑earned dollars each year, and do so at a faster pace, and by immediately phasing‑in, rather than delaying, one new and one expanded state income tax credit each designed to benefit hard‑working South Carolinians. Now, therefore,

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

SECTION 1. This act may be referred to as the ‘South Carolina Taxpayer Protection and Relief Act’.

SECTION 2. Section 12‑6‑40(A)(1)(a) and (c) of the 1976 Code, is amended to read:

“(a) Except as otherwise provided, ‘Internal Revenue Code’ means the Internal Revenue Code of 1986, as amended through ~~December 31, 2016~~ February 9, 2018, and includes the effective date provisions contained in it.

(c) If Internal Revenue Code sections adopted by this State which expired or portions thereof expired on December 31, ~~2016~~ 2017, are extended, but otherwise not amended, by congressional enactment during ~~2017~~ 2018, these sections or portions thereof also are extended for South Carolina income tax purposes in the same manner that they are extended for federal income tax purposes.”

SECTION 3. A. Section 12‑6‑50 of the 1976 Code is amended by adding three appropriately numbered items to read:

“( ) Section 63(c) relating to the amount of the standard deduction;

( ) Section 151 relating to the amount of personal exemptions;

( ) Section 199A relating to qualified business income.”

B. The Department of Revenue shall make and publish rules and promulgate regulations to effectively administer the provisions of this SECTION.

SECTION 4. A. Section 12‑6‑520 of the 1976 Code is amended to read:

“Section 12‑6‑520. Each December ~~15~~ fifteenth, the department shall cumulatively adjust the brackets in Section 12‑6‑510 ~~in the same manner that brackets are adjusted in~~ using the Chained Consumer Price Index for All Consumers, as published by the Bureau of Labor and Statistics of the Department of Labor, pursuant to Internal Revenue Code Section (1)(f). However, the adjustment ~~is limited to one‑half of the adjustment determined by Internal Revenue Code Section (1)(f),~~ may not exceed four percent a year, and the rounding amount provided in ~~(1)(f)(6)~~ (1)(f)(7) is ten dollars. The brackets, as adjusted, apply ~~in lieu~~ instead of those provided in Section 12‑6‑510 for taxable years beginning in the succeeding calendar year. Inflation adjustments must be made cumulatively to the income tax brackets.”

B. This SECTION takes effect upon approval by the Governor and first applies to tax years beginning after 2018, with the 2018 income tax brackets being used first as the base year upon which adjustments made pursuant to Section 12‑6‑520, as amended by this act, are made.

SECTION 5. A. Article 9, Chapter 6, Title 12 of the 1976 Code is amended by adding:

“Section 12‑6‑1145. (A) In addition to any other deduction, there is allowed as a deduction in computing South Carolina taxable income of an individual the following:

(1) for a taxpayer that claims the standard deduction on their federal return, a South Carolina standard deduction, based on the taxpayer’s filing status on their federal return equal to:

Filing Status Deduction Amount

Single or Married Filing Separately $ 7,570

Head of Household $11,355

Married Filing Jointly or Qualifying Widow(er) $15,140

(2)(a) for a taxpayer that claims the standard deduction on their federal return, a supplemental South Carolina standard deduction, based on the taxpayer’s filing status on their federal return, for each person who has either reached the age of sixty‑five by January second of the following tax year, or who is blind on December thirty‑first of the current tax year, equal to:

Filing Status Deduction Amount

Single or Head of Household $1,550

Married Filing Jointly, Married Filing

Separately, or Qualifying Widow(er) $1,250

(b) For each taxpayer who has reached the age of sixty‑five by January second of the following tax year and who is blind on December thirty‑first of the current tax year, the South Carolina standard deduction is twice the applicable amount set forth in subitem (a);

(3) a South Carolina personal exemption equal to $4,050 for the taxpayer, the taxpayer’s eligible spouse, and each eligible dependent.

(B) Notwithstanding the deduction amounts set forth in subsection (A)(1), (2), and (3), each December fifteenth, the department shall cumulatively adjust those deduction amounts using the Chained Consumer Price Index for All Consumers, as published by the Bureau of Labor and Statistics of the Department of Labor, pursuant to Internal Revenue Code Section (1)(f). Further, the rounding amount provided in Section (1)(f)(7) is ten dollars To qualify for the deductions allowed by subsection (A)(1), (2), and (3), the taxpayer must meet the eligibility requirements of Section 63(c), 151, 152, as applicable, mutatis mutandis, as those sections applied on January 1, 2017.”

B. Notwithstanding Section 12‑6‑1145(B), as added by this SECTION, the Department of Revenue shall not adjust the deductions set forth in Section 12‑6‑1145 for tax year 2018.

SECTION 6. Section 12‑6‑1160 of the 1976 Code is amended to read:

“Section 12‑6‑1160. A resident individual taxpayer is allowed ~~a~~ an additional deduction for each dependent ~~claimable on the taxpayer’s federal income tax return~~ eligible for the South Carolina personal exemption pursuant to Section 12‑6‑1145 who has not yet attained the age of six years during the applicable tax year. ~~This deduction is contingent upon the identification in the annual general appropriations act of revenues sufficient to offset the revenue loss caused by the exemption.~~ The deduction allowed by this section is an amount equal to ~~a percentage of the federal income tax personal exemption amount allowed for the applicable taxable year as follows:~~

~~Taxable year 1994~~ ~~twenty‑five percent~~

~~Taxable year 1995~~ ~~fifty percent~~

~~Taxable year 1996~~ ~~seventy‑five percent~~

~~Taxable years after 1996~~ ~~one hundred percent~~

the South Carolina personal exemption allowed pursuant to Section 12‑6‑1145.”

SECTION 7. The Department of Revenue shall take actions necessary to implement the provisions of this act and take the appropriate actions to educate taxpayers of the amendments contained within this act, especially those, if any, that impact filing requirements or determination of taxable income.

SECTION 8. By January 15, 2025, the Department of Revenue, in coordination with the Revenue and Fiscal Affairs Office, shall deliver a report to the General Assembly that specifies the many provisions of the Tax Cuts and Jobs Act of 2017 that expire after tax year 2025.

SECTION 9. A. Section 16.B. of Act 40 of 2017, relating to a phase‑in of the increased earned income tax credit, is repealed. The increased earned income tax credit is thereby fully phased‑in for tax years beginning after 2017.

B. Section 17.B. of Act 40 of 2017, relating to a phase‑in of the increased two‑wage earner tax credit, is repealed. The increased earned two‑wage earner tax credit is thereby fully phased‑in for tax years beginning after 2017.

SECTION 10. This act takes effect upon approval by the Governor and first applies to tax years beginning after 2017.

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