**South Carolina General Assembly**

125th Session, 2023-2024

**H. 4046**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Ballentine

Companion/Similar bill(s): 577

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Introduced in the House on February 28, 2023

Currently residing in the House Committee on **Ways and Means**

Summary: Income tax withholding

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/28/2023 House Introduced and read first time (House Journal‑page 8)

 2/28/2023 House Referred to Committee on **Ways and Means** (House Journal‑page 8)

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**VERSIONS OF THIS BILL**

[02/28/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/4046_20230228.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-8-530, SECTION 12-8-540, SECTION 12-8-570, SECTION 12-8-580, AND SECTION 12-8-595, ALL RELATING TO the WITHHOLDING OF INCOME TAXES, SO AS TO UPDATE A REFERENCE TO THE TOP MARGINAL INCOME TAX RATE.

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

SECTION 1. Section 12-8-530(A) of the S.C. Code is amended to read:

 (A) A person distributing prizes or winnings to a resident or nonresident of five hundred dollars or more shall withhold seven percent a percentage equal to the maximum individual tax rate of each distribution made to an individual, partnership, trust, or estate and five percent of each distribution made to a corporation or other entity.

SECTION 2. Section 12-8-540(A) of the S.C. Code is amended to read:

 (A) A person making rent or royalty payments to a nonresident of twelve hundred dollars in any calendar year or more annually for the use or privilege of using property in this State shall withhold seven percent a percentage equal to the maximum individual tax rate of each payment to a nonresident individual, partnership, trust, or estate and five percent of each payment to a nonresident corporation or any other nonresident entity.

SECTION 3. Section 12-8-570(A) of the S.C. Code is amended to read:

 (A) A trust or estate making a distribution of South Carolina taxable income to a nonresident beneficiary must withhold seven percent a percentage equal to the maximum individual tax rate of the beneficiary's distribution which is attributable to South Carolina taxable income. The amounts withheld must be remitted to the department at the time estimated tax payments are due.

SECTION 4. Section 12-8-580(A) of the S.C. Code is amended to read:

 (A)(1) A person who purchases real property, or real property and associated tangible personal property, from a nonresident seller shall withhold:

 (a) seven percent a percentage equal to the maximum individual tax rate of the gain recognized on the sale by a nonresident individual, partnership, trust, or estate and five percent for a nonresident corporation or other nonresident entity if the seller provides the buyer with an affidavit, described in subsection (E), stating the amount of gain;

 (b) seven percent a percentage equal to the maximum individual tax rate of the amount realized on the sale for a nonresident individual, partnership, trust, or estate and five percent by a nonresident corporation or any other nonresident entity if the seller does not provide the buyer with an affidavit described in subsection (E); or

 (c) the entire net proceeds payable to the nonresident seller, if the amount required to be withheld in subitem (1) or (2) exceeds the net proceeds payable to the seller.

 (2) If a seller finances all or part of the transaction, in lieu of remitting the tax due on each installment payment, the seller may give the buyer an affidavit stating that, for state income tax purposes, he will elect out of installment sales treatment, as defined by Section 453 of the Internal Revenue Code, and remit the entire amount of tax to be due over the period of the installment agreement.

SECTION 5. Section 12-8-595(A) of the S.C. Code is amended to read:

 (A) A withholding agent, as defined in Section 12-8-10, shall withhold state income tax at the same rate of seven percent as the maximum individual income tax rate of the amount of compensation paid to an individual, which compensation is reported on Form 1099 and with respect to which the individual has:

 (1) failed to provide a taxpayer identification number or social security number;

 (2) failed to provide a correct taxpayer identification number or social security number; or

 (3) provided an Internal Revenue Service issued taxpayer identification number issued for nonresident aliens.

SECTION 6. This act takes effect upon approval by the Governor.

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