



2022 Legislative Update And Case Law

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INCOME TAXES

Conformity (H. 5057)

General Assembly adopted last year's Conformity bill through December 31, 2021 and also specifically adopts the federal provision that targeted Economic Injury Disaster Loan advances and Restaurant Revitalization Grants maybe excluded from gross income. In addition the bill proactively adopts any expired provisions extended but not amended in 2022.

INCOME TAXES

Reduction of IIT Rates (S. 1087)

While South Carolina has a very pro-taxpayer Individual Income tax base (federal taxable income), it has a very high IIT tax rate – 7%. This causes optic problems and efforts have been made for years to reduce the rate. S. 1087 reduces the IIT rate to 6.5% for taxable years after 2021, and beginning with tax year 2023, the top rate decreases by one-tenth of one percent if General Fund revenues increase by at least 5% till it hits 6% in 2027.

INCOME TAXES

Reduction of IIT Rates (S. 1087)

The remaining current tax brackets — 4 percent, 5 percent and 6 percent — will all be cut to 3 percent right away. The bracket changes combined will reduce collections next year by \$596 million, the state estimated.

INCOME TAXES

Individual Income Tax Rate

Here's a sample of what the tax rate cuts will be worth, on average, based on taxable income ranges, and how many tax filers are in each group:

- 206,449 tax filers between \$5,000 and \$10,000 — \$17.
- 249,770 between \$20,000 and \$30,000 — \$245.
- 136,503 between \$40,000 and \$50,000 — \$351.
- 63,891 between \$70,000 and \$80,000 — \$511.
- 40,917 between \$125,000 and \$150,000 — \$839.
- 7,060 between \$500,000 and \$1 million — \$3,660.
- 2,337 above \$1 million — \$13,453.

If the top rate is eventually reduced to 6 percent, as planned for 2027 tax returns, a family with between \$70,000 and \$80,000 in taxable income would save \$929 compared to current tax rates. Those in the \$1 million-plus group would average \$29,926 in savings that year.

INCOME TAXES

Income Taxes Military Retirement Income

The legislation also provides that military retirement income will be fully deductible — income tax-free — which will collectively save those retirees about \$8 million at tax time next year.

INCOME TAXES

Income tax credits have been established for employers who hire (1) veterans of the Armed Forces of the United States; or (2) formerly incarcerated individuals as new employees who were enrolled in a apprenticeship program validated by the US Department of Labor. The credit is \$3,000 per employee in the first year and \$2,500 in the second and \$1,000 in the third if the individual remains employed.

PROPERTY TAXES

The General Assembly made significant legislative changes to manufacturer's property taxes. These are covered in second Power Point.

PROPERTY TAXES

Farm Buildings (S. 233)

For years the value of farm buildings were incorporated into the value of farmland and were not separately assessed. A Court of Appeals decision some five years ago held that this was in error and that farm buildings should be separately assessed. S. 233 exempts from property taxes all farm buildings and agricultural structures owned by a producer in this state used to house livestock, poultry, crops, farm equipment or farm supplies.

LOCAL GOVERNMENT USER FEES

Local Government Road Fees

One of the more contentious debates among lawmakers the past legislative session regarded whether or not local governments should be allowed to implement local user and service fees. This issue came about due to a lawsuit in Greenville County where the SC Supreme Court invalidated Greenville's vehicle registration fees and the annual telecommunications fee.

S. 984, by Senator Greg Hembree (R-Horry), was introduced to clarify that counties could implement these fees. Senator Tom Davis (R-Beaufort) who served on the conference committee said he supported the legislation because "taxpayers will be taxed to pay taxpayers back and half will go to the plaintiff's lawyers," without the bill.

The House rejected the conference report before reconsidering the vote and eventually narrowly passing the legislation. The Senate approved it 24-12.

Governor McMaster signed it into law.

LOCAL GOVERNMENT USER FEES

User Fees (S. 233)

The South Carolina Supreme Court held that a road maintenance fee imposed by Greenville County was an invalid tax – not a user fee – and class actions were filed against a number of local governments. S. 233 authorizes service or user fees where the revenue generated by the fee (1) benefits the payers (even if the general public also benefits); (2) is used only for the specific improvement contemplated; (3) does not exceed the cost of the improvement; (4) is uniformly imposed on all payers; and (5) the amount of dollars annually collected is published on the County’s website.

ACCOUNTANTS

S. 812 makes extensive changes to Chapter 2, Title 40, relating to the regulation of Certified Public Accountants and Public Accountants.

RECENT DOR POLICY DOCUMENTS

- ▶ Rev. Rul. #22-4 (Income Tax) Federal Employee Retention Credit – modification for qualified wages in 2020 and 2021. Taxpayers may deduct qualified wages disallowed for federal tax purposes as a result of claiming the federal employee retention credit from their federal taxable income on their SC tax return
- ▶ Rev. Rul. #22-5 (Income Tax) SALT Workaround. Deals with income taxes paid by a Pass-Through entity to other states on personal services income and other business income and the credit for taxes paid to other states.
- ▶ Rev. Rul #22-2 (Sales Tax) Local Transportation Tax – Expenditure Guidelines
- ▶ Rev. Rul. #22-3 (Income Tax) Employer Wage Withholding Requirements
- ▶ PLR # 22-1 (Sales Tax) Sales of Allergen Extracts – injectable Biologics Exemption