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South Carolina Senate Fails to Take Action on Conformity Bill

BNA Snapshot

- Legislature adjourns without action on bill decoupling from certain federal changes
- Consideration of conformity measures now scheduled for June special session
- Potential to impact larger effort to overhaul state tax code seen



By **Andrew M. Ballard**

Action on a bill in South Carolina that would decouple from certain federal business tax provisions has been delayed as the Legislature adjourned May 10.

The state Senate failed to act on a bill (**H.B. 5341**) that would address certain recent changes in federal tax provisions by conforming with some and decoupling from others. The measure, which passed the House unanimously, aims to keep taxpayers from seeing their state taxes increase from those federal changes.

Lawmakers still have an opportunity to take conformity-related action during a special short session June 27 and June 28 lawmakers scheduled before leaving. The adjournment resolution (**H.B. 5383**) says lawmakers will convene for the "receipt, consideration, and disposition of legislation relating to the conformity and conformity related issues to state income tax laws."

Appetite to Address Conformity?

It is unusual for the Legislature to include items that have not passed both chambers in a "sine die" resolution, Rick Reames, a tax attorney with Nexsen Pruet LLC in Columbia, S.C., who previously led the state revenue agency, told Bloomberg Law May 11. "Conformity has only passed the House and the fact that it is included in sine die shows that there may be an appetite to address it in June," he said.

"However, there is a growing thought that actions in June to conform could take the wind out of the sails of a larger tax reform discussion that may take place next legislative session," Reames said.

South Carolina's House Tax Policy Review Committee has been considering ways to simplify the state's tax provisions for almost two years and released an **income tax reform proposal** in February that would eliminate the current tax brackets in favor of the single "flat" tax rate. The committee also released a **proposal** to cut the sales tax rate in half while eliminating all exemptions.

Urging Action

Gov. Henry McMaster (R) has urged lawmakers to take action to prevent an increase in state taxes that full conformity would bring. Lack of action also will increase complexity and costs to prepare returns.

According to **fiscal notes** accompanying H.B. 5341, South Carolina is one of the six states most tied to federal provisions, as it conforms to federal taxable income rather than to federal adjusted gross income as most states do.

If the state moves forward with the decoupling proposed in H.B. 5341, aligning with the 2017 federal tax act (**Pub. L. No. 115-97**) and the Bipartisan Budget Act of 2018 would result in additional state revenues of about \$253 million. That figure represents a hike in personal income tax revenues of \$262 million and about \$9 million in lower business taxes.

To keep money in the hands of taxpayers, H.B. 5341 would create a \$1,525 personal exemption. The House-approved legislation also would decouple from new interest expense limitations, certain foreign tax provisions, taxes on income from economic incentives, and new limitations on bank premium deductions.

Pending Bills

On the last day of the session, Senate President pro tempore Hugh Leatherman (R) also introduced a measure (**S.B. 1258**) that would decouple from certain federal provisions and phase in an expanded state income tax credit. Both H.B. 5341 and S.B. 1258 are before the Senate Finance Committee.

The Council On State Taxation (COST), a Washington-based trade organization representing about 550 multistate corporations engaged in interstate and international business, **has urged** lawmakers to decouple the state from new federal interest expense limitations and clarify that certain foreign income should be excluded from South Carolina income.

Among other things that lawmakers will tackle when they briefly return are vetoed measures, bills that currently are in conference, and differences in the state budget bills that passed the House and Senate.

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For More Information

H.B. 5341 is at <http://src.bna.com/yjF>.

S.B. 1258 is at <http://src.bna.com/yjG>.

H.B. 5383 is at <http://src.bna.com/yjD>.