



South Carolina Bar

Continuing Legal Education Division

2018 SC BAR CONVENTION

Tax Law Section

Saturday, January 20

SC Supreme Court Commission on CLE Course No. 180811



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Update from the South Carolina
Department of Revenue

Jason P. Luther
Andrew W. Saleeby



Policy Section Update

Disclaimer

The following presentation is provided in general terms and may not contain all the specific requirements or provisions of authority. This presentation does not constitute tax, legal, or other advice, and attendees should conduct their own research concerning any matter discussed in this presentation before providing advice to clients. This presentation does not represent official Department policy.

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How may we help?

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New legislation

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Contact Information

Andrew W. Saleeby

803-898-8027

andrew.saleeby@dor.sc.gov

2017 Advisory Opinions

The following is a list of the advisory opinions issued in 2017 by the Policy Division of the South Carolina Department of Revenue as of November 1, 2017, and a summary of the opinions setting forth significant changes in the department's position on or interpretation of various laws. You may view the complete text of these opinions by visiting our website at dor.sc.gov/policy.

Revenue Rulings:

RR17-1	Sales and Use	Residential Electricity Exemption
RR17-2	Sales and Use	Communications – Ways or Means for the Transmission of the Voice or Messages and Other Communications
RR17-3	Motor Fuel User Fee; Sales and Use	Natural Gas Compressed or Liquefied for Use in a Motor Vehicle
RR17-4	Sales and Use	Residential Electricity Exemption Nursing Homes, Assisted Living Facilities, Healthcare Facilities, Dormitories and Prisons
RR17-5	Deed Recording Fee	Deed Recording Fee
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Revenue Procedures:

RP17-1	Income; Bank Franchise	Return Due Dates and Extensions of Time to File-Revised Dates
RP17-2	Income	Withholding on South Carolina Income of Nonresident Shareholders and Partners

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IL17-1	All Taxes	Citator of South Carolina Advisory Opinions from 1987 – December 2016
IL17-2	Sales & Use	Local Sales and Use Tax Charts, Catawba Tribal Sales and Use Tax Chart and Exemption Information

IL17-3	Withholding	New Due Dates for Certain Withholding Filings and Remittances
IL17-4	Sales and Use	Local Sales and Use Tax Charts, Catawba Tribal Sales and Use Tax Chart and Exemption Information
IL17-5	All Taxes	Interest Rate for Under/Overpayments – September 1985- June 2017
IL17-6	All Taxes	Citator of South Carolina Advisory Opinions from 1987 – March 2017
IL17-7	Sales and Use	Sales Tax Holiday Dates for 2017
IL17-8	Sales and Use	South Carolina Infrastructure and Economic Development Reform Act
IL17-9	All Taxes	Interest Rate for Under/Overpayments – September 1985- September 2017
IL17-10	Sales and Use	SC Infrastructure and Economic Development Reform Act – Notice to Motor Vehicle, Motorcycle, and Trailer Dealers and Retailers
IL17-11	Income	Per Capital Income Figures for State of South Carolina
IL17-12	All Taxes	Citator of South Carolina Advisory Opinions from 1987 – June 2017
IL17-13	Deed Recording Fee	Sample Affidavits
IL17-14	All Taxes	Interest Rate for Under/Overpayments – September 1985- December 2017
IL17-15	All Taxes	Tax Legislative Update for 2017

Revenue Ruling 17-6

SC Revenue Ruling 17-6 reviews a new tax credit available to resident *taxpayers* for the amount they spend on preventative maintenance for up to two private passenger motor vehicles, including motorcycles, registered in South Carolina. The credit is refundable, may be first claimed for tax years beginning in 2018, and may only include expenses incurred that correspond to that tax year. The department has published SC Form I-385, which resident taxpayers will attach to their income tax returns to claim the credit. The credit is scheduled to be repealed for tax years beginning after December 31, 2022.

The credit, as provided in S.C. Code Ann. §12-6-3780, is limited to either the amount, per vehicle, the resident taxpayer spends on (1) “preventative maintenance”, which includes costs incurred within this State for new tires, oil changes, regular maintenance, and the like, or (2) the resident taxpayer’s actual motor fuel user fee increase incurred as a result of the increases in the motor fuel user fee pursuant to S.C. Code Ann. §12-28-310(D).

The Revenue Ruling sets forth, in question and answer format, the various issues brought to the department’s attention by taxpayers, tax practitioners, and through internal analysis.

Information Letter 17-8

SC Information Letter 17-8 provides general information on the tax implications of the South Carolina Infrastructure and Economic Development Reform Act effective July 1, 2017. Although the Act contains tax provisions going into effect well beyond July 1, 2017, such changes will be summarized in a subsequent advisory opinion.

The Act imposes a gradual twelve cent increase in the per gallon Motor Fuel User Fee in six installments of two cents per year, with the first increase going into effect on July 1, 2017, and each additional increase being effective on each subsequent July 1 through 2022. The act also imposes an identical increase in the per gallon Motor Carrier Road Tax. However, unlike past increases in the Motor Fuel User Fee, the increase imposed by the Act does not apply to motor fuel inventories on hand when the increase goes into effect because the Act also repeals S.C. Code Ann. §12-28-530.

The Act also increases the Maximum Tax imposed by S.C. Code Ann. §12-36-2110 from three hundred to five hundred dollars, except for musical instruments and office equipment purchased by a religious organization, and for certain energy efficient manufactured homes. However, the number of items subject to the max tax will decrease significantly due to the new Infrastructure Maintenance Fee referenced below. Furthermore, the Casual Excise Tax, which previously applied to the issuance of every certificate of title, or other proof of ownership for every motor vehicle, motorcycle, boat, motor, or airplane, has been amended. The Casual Excise Tax now only applies to boats, boat motors, and airplanes.

In addition to the changes to Title 12 of the South Carolina Code of Laws, the Act makes changes to Title 56 dealing with Motor Vehicles, namely, the creation of an Infrastructure Maintenance Fee (IMF) imposed on the initial registration of items that must be registered pursuant to Chapter 3, of Title 56. In concert with the creation of the IMF, the Act provides an exemption from Sales and Use tax for the gross proceeds of sales, or sales price, of any item now subject to the IMF. However, only sales of items subject to the IMF are exempted; as such, the exemption from sales and use tax does not apply to transfers of items not subject to the IMF – e.g. sales by South Carolina dealers to purchasers registering the item out of state. The Act also provides exemptions from the IMF for certain transfers from a person other than a dealer who holds a SC retail license – e.g. transfers from members of immediate family.

Information Letter 17-15

SC Information Letter 17-15 provides a summary of legislation affecting South Carolina tax and regulatory provisions enacted in the 2017 South Carolina Legislative Session, and reminders for provisions enacted in the 2016 Legislation Session going into effect in 2017. Many of the summaries are included in the materials below. However, you may download the full text at dor.sc.gov/policy.

2017 Legislative Session

The following is a summary of some of the more significant changes to South Carolina's Tax and Regulatory laws enacted in the 2017 Legislative Session. For the entire 2017 legislative update published by the Policy Division of the South Carolina Department of Revenue, please visit dor.sc.gov/policy/index/policy-manuals.

Act No. 33 – Permits for alcohol at motorsport and tennis events

Baseball Complex – New Licensing Provisions for Beer and Wine and for Alcoholic Liquors

Code Sections 61-4-515 and 61-6-2016 allow the Department to issue a biennial beer and wine permit and a biennial alcoholic liquor by the drink license to the owner, or his designee, of a motorsports entertainment complex or tennis specific complex located in South Carolina. The permit and license authorize the purchase from licensed wholesalers and sale for on-premises consumption of beer and wine and alcoholic liquor by the drink at any occasion held on the complex grounds, year round on any day of the week.

Both Code Sections 61-4-515 and 61-6-2016 were amended to include baseball complexes as one of the facilities for which the owner or designee may apply for the biennial permit and license. The nonrefundable filing fees and the fees for the biennial permit and license are the same as for other biennial permits and licenses for on-premises consumption of beer and wine and alcoholic liquor by the drink, respectively.

The Department may issue these permits and licenses whether or not the complex on behalf of which an application is submitted is located in a county or municipality that has successfully held a referendum pursuant to Code Section 61-6-2010 allowing the possession, sale, and consumption of beer or wine or alcoholic liquors by the drink for a period not to exceed 24 hours. The Department in its discretion may specify the terms and conditions of the permit, pursuant to the provisions of Chapter 4, Title 61, and other applicable provisions under Title 61.

The owner or designee of the baseball complex may designate particular areas within the complex where patrons of events who have paid an admission price to attend, or guests who are attending private functions at the complex, whether or not a charge for attendance is made, may possess and consume beer and wine, and alcoholic liquors by the drink, provided at their own expense or at the expense of the sponsor of the private function.

A "baseball complex" is defined as a baseball stadium, along with its ancillary grounds and facilities that hosts a professional minor league baseball team.

Effective Date: May 10, 2017

Act No. 40 - SC Infrastructure and Economic Development Reform Act

The South Carolina legislature passed the Infrastructure and Economic Development Reform Act on May 9, 2017. Despite the name, this Act imposes changes dealing with much more than infrastructure and economic development. To summarize, the Act, in pertinent part:

- **Increases the gas tax by twelve cents over the next six years (§12-28-310).**

Code Section 12-28-310(A) imposes a user fee of sixteen cents per gallon on:

1. All gasoline, gasohol, or blended fuels containing gasoline that are used or consumed for any purpose in South Carolina; and
2. All diesel fuel, substitute fuels, or alternative fuels, or blended fuels containing diesel fuel that are used or consumed in South Carolina in producing or generating power for propelling motor vehicles.

Code Section 12-28-310(D) has been added to provide for a user fee increase by two cents a gallon each year for six years as follows:

Date of Rate Change	New User Fee Rate Per Gallon
July 1, 2017	18 cents
July 1, 2018	20 cents
July 1, 2019	22 cents
July 1, 2020	24 cents
July 1, 2021	26 cents
July 1, 2022	28 cents

Note: The inspection fee imposed under Code Section 12-28-2355(A) at the rate of one-quarter cent per gallon, and the environmental impact fee imposed under Code Section 12-28-2355(B) at the rate of one-half cent per gallon, remain unchanged.

Effective Date: July 1, 2017

- **Increases the road tax imposed on motor carriers by the same amount as the gas tax (§§56-11-410 and 450).**

Code Section 56-11-410 imposes a road tax on every motor carrier for the privilege of using the streets and highways of South Carolina. The road tax is calculated on the amount of gasoline or other motor fuel used by the motor carrier in its operations in South Carolina, provided the motor carrier is allowed a credit against the road tax for the South Carolina motor fuel user fee imposed by Code Section 12-28-310 and paid by the carrier for operations within and without South Carolina.

Prior to July 1, 2017, the road tax was sixteen cents per gallon. Code Section 56-11-410(A) was amended so that the road tax is imposed at the same rate as the motor fuel user fee imposed by Code Section 12-28-310. Therefore, the road tax will increase two cents a gallon each year for six years as follows:

Date of Rate Change	New Road Tax Rate Per Gallon
July 1, 2017	18 cents
July 1, 2018	20 cents
July 1, 2019	22 cents
July 1, 2020	24 cents
July 1, 2021	26 cents
July 1, 2022	28 cents

Effective Date: July 1, 2017

- **Creates the infrastructure maintenance fee (§56-3-627).**

In 2017, the General Assembly enacted the South Carolina Infrastructure and Economic Development Reform Act (Act No. 40) to address the needs of South Carolina's transportation infrastructure system. The Act imposed a new infrastructure maintenance fee upon the registration of a vehicle with the South Carolina Department of Motor Vehicles and amended the application of the sales and use tax and casual excise tax to motor vehicles, trailers, semitrailers, and other items.

The infrastructure maintenance fee is administered by the South Carolina Department of Motor Vehicles. Since the changes to the sales and use tax law are so intertwined with the new infrastructure maintenance fee, a summary of the infrastructure maintenance fee is provided below. Questions concerning these provisions should be directed to the South Carolina Department of Motor Vehicles at cartaxes@scdmv.net.

Code Section 56-3-627 has been added to impose a new infrastructure maintenance fee beginning July 1, 2017 to account for necessary road maintenance in South Carolina. This fee will be in addition to the registration fees imposed by Chapter 3 of Title 56.

The owner of each vehicle, trailer, semitrailer or other item that must be registered pursuant to Chapter 3 of Title 56 must pay the infrastructure maintenance fee upon first registering the vehicle, trailer, semitrailer or other item with the South Carolina Department of Motor Vehicles. The South Carolina Department of Motor Vehicles may not issue a registration until the infrastructure maintenance fee has been collected.

The infrastructure maintenance fee is remitted to the South Carolina Department of Motor Vehicles and is imposed under three circumstances as follows:

Purchases or Leases from a Dealer.

The infrastructure maintenance fee is imposed when the owner first registers a vehicle, trailer, semitrailer or other item required to be registered under Chapter 3 of Title 56 that was purchased or leased from a dealer. The infrastructure maintenance fee is the lesser of (1) 5% of the gross proceeds of sales, or sales price (as those terms are defined in Chapter 36 of Title 12); or (2) \$500.

If the dealer has a South Carolina retail license or offers to license and register the item, then the dealer must collect the infrastructure maintenance fee and remit it to the South Carolina Department of Motor Vehicles.

Purchases or Leases from a Person Other than a Dealer.

The infrastructure maintenance fee is imposed when the owner first registers a vehicle, trailer, semitrailer or other item required to be registered under Chapter 3 of Title 56 that was purchased or leased from a person other than a dealer (such as an individual or a business that is not licensed as a dealer). The infrastructure maintenance fee is the lesser of (1) 5% of the fair market value or (2) \$500.

Code Section 56-3-627(C)(2) excludes from the infrastructure maintenance fee the following purchases and leases from non-dealers:

- a. Items transferred to members of the immediate family;
- b. Items transferred to legal heirs, legatees, or distributees;
- c. Items transferred from an individual to a partnership upon formation of a partnership;
- d. Items transferred from a stockholder to a corporation upon formation of a corporation;
- e. Items transferred to a licensed motor vehicle or motorcycle dealer for the purpose of resale;
- f. Items transferred to a financial institution for the purpose of resale, or to any other secured party as a result of repossession for the purpose of resale;
- g. Items transferred to a seller or secured party as a partial payment;
- h. Transactions exempt from the sales or use tax under Code Section 12-36-2120; and
- i. Items where a sales or use tax has been paid on the transaction necessitating the transfer.

Code Section 56-3-627(C)(4) contains several definitions regarding purchases or leases from a person other than a dealer. The definitions are summarized below.

- “Fair market value” means the total purchase price less any trade-in, or the valuation shown in a national publication of used values adopted by the South Carolina Department of Motor Vehicles, less any trade-in.
- “Immediate family” means spouse, parents, children, sisters, brothers, grandparents, and grandchildren.
- “Total purchase price” means the price of an item agreed upon by the buyer and seller with an allowance for a trade-in, if applicable.

Vehicles First Registered Out-of-State and Later Registered in State

The infrastructure maintenance fee is imposed when the same owner purchases or leases a vehicle, trailer, semitrailer or other item required to be registered under Chapter 3 of Title 56, first registers the item in another state, and subsequently registers the item for the first time in South Carolina. This infrastructure maintenance fee is \$250.

The \$250 infrastructure maintenance fee for a vehicle first registered out-of-state and later registered in South Carolina for the first time by the same owner does not apply to a person serving on active duty in the Armed Forces of the United States. This \$250 infrastructure maintenance fee also does not apply to a spouse or dependent of a person serving on active duty in the Armed Forces of the United States.

Additional Information.

See SC Information Letter #17-10 for more information on the new infrastructure maintenance fee, including information on exemptions from the infrastructure maintenance fee for nonresident members of the United States Armed Forces. See below for a summary regarding the exemption from the sales and use tax for items subject to the new infrastructure maintenance fee.

For questions regarding the new infrastructure maintenance fee, please contact the South Carolina Department of Motor Vehicles at cartaxes@scdmv.net.

Effective Date: July 1, 2017

- **Increases the maximum tax to five hundred dollars (§12-36-2110(A)).**

Code Section 12-36-2110(A) contains a maximum sales and use tax on certain enumerated items. Code Section 12-36-2110(A) has been amended to increase the maximum tax from \$300 to \$500 for each sale or qualifying lease of each item listed below:

1. Aircraft, including unassembled aircraft which is to be assembled by the purchaser, but not items to be added to the unassembled aircraft;
2. Motor vehicle;
3. Motorcycle;
4. Boat;
5. Trailer or semitrailer, pulled by a truck tractor, as defined in Code Section 56-3-20, and horse trailers, but not including house trailers or campers as defined in Code Section 56-3-710;
6. Fire safety education trailer;
7. Recreational vehicle, including a tent camper, travel trailer, park model, park trailer, motor home, and fifth wheel;
8. Self-propelled light construction equipment with compatible attachments limited to a maximum of 160 net engine horsepower.

Note: This amendment did not change the \$300 maximum tax imposed under Code Section 12-36-2110(C) for musical instruments and office equipment purchased by a religious organization exempt under Internal Revenue Code Section 501(c)(3). The maximum tax imposed under Code Section 12-36-2110(B) for certain energy efficient manufactured homes also remains unchanged.

Effective Date: July 1, 2017

Beginning July 1, 2017, the new infrastructure maintenance fee applies to motor vehicles, motorcycles, and other items which are required to be registered with the South Carolina Department of Motor Vehicles under Chapter 3 of Title 56. However, the sales tax, rather than the infrastructure maintenance fee, continues to apply to the sale of motor vehicles, motorcycles, and other items sold to persons that will register and use such items in another state, unless the transaction is otherwise exempt.

Code Section 12-36-2110(A)(5) has been added to provide that the sales tax due on sales by dealers (registered with the South Carolina Department of Motor Vehicles) of items subject to a maximum sales tax under Code Section 12-36-2110(A)(1) (e.g., a motor vehicle or motorcycle) which would be subject to the new infrastructure maintenance fee in Code Section 56-3-627 if registered in South Carolina, but that will instead be registered in another state, must now be collected by and remitted to the South Carolina Department of Motor Vehicles. Prior to July 1, 2017, the South Carolina Department of Revenue collected this tax.

For more information regarding transactions where the infrastructure maintenance fee or the sales and use tax applies, and to whom the fee or tax is remitted, see SC Information Letter #17- 10.

- **Exempts from sales and use tax any item subject to the new infrastructure maintenance fee (§12-36-2120).**

Code Section 12-36-2120(83) has been added to exempt from state and local sales and use tax the gross proceeds of sales, or sales price, of any item subject to the new infrastructure maintenance fee imposed under Code Section 56-3-627.

Effective Date: July 1, 2017

- **Removes motor vehicles and motorcycles from items subject to the excise tax on casual sales (§12-36-1710).**

Code Section 12-36-1710, imposing a casual excise tax on the issuance of a certificate of title or other proof of ownership on certain items, has been amended and now only applies to (a) boats, (b) boat motors, and (c) airplanes. This amendment deleted motor vehicles and motorcycles from the items subject to casual excise tax. Purchases and leases of motor vehicles and motorcycles are now subject to an infrastructure maintenance fee pursuant to Code Section 56-3- 627 upon registration with the South Carolina Department of Motor Vehicles (unless otherwise exempt).

Effective Date: July 1, 2017

- **Imposes a new motor carrier road use fee on a motor carrier's large commercial motor vehicles and buses registered for use in this State, and a one-time fee on trailers and semitrailers used therewith, and exempts the same from ad valorem property taxes (§§12-37-2810, 2815, 2820, 2830, 2840, 2850, 2860, 2865, 2870, and 2880).**

In 2017, the General Assembly enacted the South Carolina Infrastructure and Economic Development Reform Act (Act No. 40) to address the needs of South Carolina's transportation infrastructure system. Article 23, Chapter 37, Title 12, concerning property taxation of motor carriers, has been amended to impose a new motor carrier road use fee on a motor carrier's large commercial motor vehicles and buses. The South Carolina Department of Motor Vehicles will assess and administer the road use fee.

Previously, the South Carolina Department of Revenue assessed and administered an ad valorem property tax on a motor carrier's large commercial motor vehicles and buses. The amendments to Article 23 no longer subject large commercial motor vehicles and buses of a motor carrier to 31 ad valorem property taxes. These vehicles are now subject to a road use fee. Small commercial motor vehicles are not subject to the road use fee and must be licensed and registered, and are subject to ad valorem taxes as otherwise provided by law. Code Section 12-37-2815.

Questions concerning these provisions should be directed to the South Carolina Department of Motor Vehicles.

Effective Date: January 1, 2019

- **Repeals section 12-28-530, which subjected to increases in the gas tax certain motor fuel previously subject to the tax – e.g. inventory held for sale by a fuel vendor.**

Code Section 12-28-530, which concerns the payment in certain circumstances of the motor fuel user fee on motor fuel inventories when there has been an increase in the user fee rate, has been repealed and does not apply to the increased user fee rate that began July 1, 2017 or to any future increase in the user fee rate.

Effective Date: July 1, 2017

- **Creates a refundable income tax credit for preventative maintenance on a private passenger motor vehicle, or motorcycle (§12-6-3780).**

Code Section 12-6-3780 has been added to allow a resident taxpayer a refundable income tax credit for preventative maintenance costs associated with a private passenger motor vehicle or motorcycle registered in South Carolina during the year, subject to certain limitations.

The credit is the lesser of: (1) the resident taxpayer's preventative maintenance expenses; or (2) the resident taxpayer's actual motor fuel user fee increase incurred for that motor vehicle as a result of increases in the motor fuel user fee pursuant to Code Section 12-28-310(D).

Other credit requirements and provisions include:

1. A resident taxpayer may claim the credit for up to two private passenger motor vehicles. The credit is calculated separately for each vehicle.
2. The credit must be claimed on the resident taxpayer's income tax return.
3. The Department may require any documentation it deems necessary to implement the provisions of this section.
4. A maximum aggregate amount of credit is available per tax year as follows:

Tax Year	Total Credit Allowed for All Taxpayers
2018	\$40 Million
2019	\$65 Million
2020	\$85 Million
2021	\$110 Million
2022	\$114 Million

If the Revenue and Fiscal Affairs Office estimates that the total amount of credits claimed will exceed the maximum amount of aggregate credit allowed, it shall certify to the Department a pro rata adjustment to the credit otherwise provided.

For purposes of this credit, “private passenger motor vehicle,” “motor fuel expenditures” and “preventative maintenance” are defined as follows:

- “Private passenger motor vehicle” is defined in Code Section 56-3-630. Code Section 56-3-630 provides, in part, that a private passenger motor vehicle is a motor vehicle designed, used, and maintained for the transportation of ten or fewer persons and trucks having an empty weight of 9,000 pounds or less and a gross weight of 11,000 pounds or less.
- “Motor fuel expenditures” are purchases of motor fuel within South Carolina to which the motor fuel user fee imposed pursuant to Code Section 12-28-310(D) applies.
- “Preventative maintenance” includes costs incurred within South Carolina for new tires, oil changes, regular vehicle maintenance, and the like.

Expiration: Unless reauthorized by the General Assembly, the credit may not be claimed for any tax year beginning after 2022.

See SC Revenue Ruling #17-6 for more information regarding the credit.

Effective Date: For tax years beginning after 2017

- **Creates the South Carolina Earned Income Tax Credit (§12-6-3632).**

Code Section 12-6-3632 has been added to provide a full-year resident individual a nonrefundable South Carolina earned income tax credit. The credit is equal to 125% of the federal earned income tax credit allowed the taxpayer under Internal Revenue Code Section 32.

The credit will be phased in over six years in equal installments of 20.83% beginning in 2018 as follows:

Tax Year	Credit Amount
2018	20.83% of Federal EITC
2019	41.67% of Federal EITC
2020	62.5% of Federal EITC
2021	83.33% of Federal EITC
2022	104.17% of Federal EITC
2023 and thereafter	125% of Federal EITC

Effective Date: Tax years beginning after 2017

- **Increases the maximum available Two-Wage Earner Credit (§12-6-3330).**

Code Section 12-6-3330, providing a two-wage earner income tax credit for married individuals filing a joint return when both spouses have South Carolina earned income, has been amended to increase the maximum credit available from \$210 to \$350. Prior to this amendment, the credit was limited to 0.7% of the lesser of \$30,000 or the South Carolina qualified earned income of the spouse with the lower South Carolina qualified earned income for the tax year.

The amendment increases the \$30,000 threshold to \$50,000. It is phased in over six years in equal installments of \$3,333 each tax year as follows:

Tax Year	Earned Income Threshold	Factor	Max Credit
2018	\$33,333	0.7%	\$233
2019	\$36,667	0.7%	\$257
2020	\$40,000	0.7%	\$280
2021	\$43,333	0.7%	\$303
2022	\$46,667	0.7%	\$327
2023 and thereafter	\$50,000	0.7%	\$350

Effective Date: Tax years beginning after 2017

- **Increases the Tuition Tax Credit (§12-6-3385).**

Code Section 12-6-3385, providing a refundable individual income tax credit for college tuition paid during a tax year, has been amended to increase the tuition tax credit to 50% of tuition paid during a tax year, not to exceed \$1,500, for tuition paid to both two-year and four-year institutions.

Prior to amendment, the credit was equal to 25% of tuition paid during a tax year, not to exceed \$350 for tuition paid to a two-year institution, or \$850 for tuition paid to a four-year institution.

Code Sections 12-6-3385(A)(1)(b) and (c) have been added to provide that the maximum amount of credits allowed for all taxpayers may not exceed \$40 million in tax year 2018, and thereafter may not exceed the maximum amount in tax year 2018, plus a cumulative amount equal to the percentage increase in the Higher Education Price Index, not to exceed more than three percent a year. The Revenue and Fiscal Affairs Office shall certify the maximum credit to the Department.

If the total amount of credits claimed by all taxpayers exceeds the maximum amount, then each credit must be reduced proportionately.

Effective Date: Tax years beginning after 2017

- **Creates a property tax exemption for a portion of manufacturing real and personal property (§12-37-220(B)(52)).**

Code Section 12-37-220(B)(52) has been added to exempt from ad valorem property taxes 14.2857% of the property tax value of manufacturing property assessed for property tax purposes pursuant to Code Section 12-43-220(a)(1), both real and personal. If the exemption is applied to real property, then it must be applied to the property tax value as it may be adjusted downward to reflect the 15% cap on value provided in Section 6, Article X of the South Carolina Constitution.

The exemption amount is phased in over six equal and cumulative percentage installments, as follows:

Property Tax Year Beginning In	Exemption Amount
2018	2.38095%
2019	4.7619%
2020	7.14285%
2021	9.5238%
2022	11.90475%
2023 and thereafter	14.2857%

The revenue loss resulting from the exemption must be reimbursed and allocated to the political subdivisions of South Carolina, including school districts, in the same manner as the Trust Fund for Tax Relief, not to exceed \$85 million per year. For any year in which the reimbursements are projected by the Revenue and Fiscal Affairs Office to exceed the reimbursement cap, the exemption amount shall be proportionately reduced so as not to exceed the reimbursement cap. Property exempted from property taxes in the manner provided in Code Section 12-37-220(B)(52), as discussed above, is considered taxable property for purposes of bonded indebtedness pursuant to Section 15, Article X of the South Carolina Constitution.

Effective Date: For property tax years beginning after 2017

Act No. 44 – Alcoholic Beverages (Title 61)

Special Nonprofit Event License – New License and Other Requirements

License for Special Nonprofit Event.

Code Section 61-2-185 was added to authorize a special license for nonprofit organizations holding special nonprofit events. A special nonprofit event is defined as “an event for which a

nonprofit organization solicits and accepts donations of alcohol to be sold for on-premises consumption.” 33 To obtain a license, a nonprofit organization must submit an application to the Department that satisfies the requirements in Code Section 61-2-90. The application must also include notice to local law enforcement, and it may require criminal background checks. The nonprofit must pay a nonrefundable license fee of \$40 with the application. The nonprofit organization shall not be licensed to hold more than four special nonprofit events in one calendar year.

Additionally, a nonprofit organization applying for a special nonprofit event license must meet the following requirements:

- a. The nonprofit organization must be registered as a domestic nonprofit organization and be in good standing with the South Carolina Secretary of State;
- b. The nonprofit organization must not hold a biennial permit or license issued pursuant to Title 61 for on-premises or off-premises consumption;
- c. A special nonprofit event must last no longer than 72 consecutive hours and an event may take place at more than one location where the nonprofit organization has control of the premises. For multiple locations to constitute one event, each location must be in the same county; and
- d. The nonprofit organization must have a reputation for peace and good order in its community, and the principals must be of good character. The Department must deny an application that does not contain the information required on the application and the license fee.

Donation of Alcohol for Sale and On-Premises Consumption.

Code Section 61-2-185(C) defines “alcohol” and “supplier” as follows:

“Alcohol” means beer, ale, porter, and other similar malt or fermented beverages, wine not in excess of twenty-one percent alcohol, alcoholic liquors, or any other type of alcoholic beverage that contains any amount of alcohol and is used as a beverage for human consumption. It does not include alcohol that is not registered as a brand in South Carolina and it does not include alcohol that is made at home for home consumption.

“Supplier” means a manufacturer, producer, vintner, brewer, micro-brewer, importer, distiller, or micro-distiller of alcohol, authorized to do business in this State.

Code Section 61-2-185(D) grants alcohol suppliers and wholesalers an exemption from the restrictions imposed by Code Sections 61-4-735, 61-4-940, and Chapter 6 of Title 61 for alcohol donations made to a nonprofit organization for sale and on-premises consumption at a special nonprofit event. This exemption is subject to the following requirements:

- a. All alcohol provided must be transferred through a wholesaler that is licensed in South Carolina and authorized by an applicable supplier to sell alcohol to retailers;
- b. Up to three calendar days prior to the event, the nonprofit organization may pick up the alcohol at the applicable wholesaler's warehouse, or the applicable wholesaler may deliver the alcohol to the event premises, provided the nonprofit organization presents its special nonprofit event license to the wholesaler upon pickup or delivery. The wholesaler may deliver the alcohol to the event premises only if the nonprofit organization is in control of the event premises at the time of delivery;
- c. Except as provided in Code Section 61-2-185(E)(1), where applicable, the provisions of Article 13, Chapter 4, Title 61, concerning territorial agreements, apply;
- d. The wholesaler must pay the appropriate state excise taxes on the donated alcohol;
- e. A wholesaler that chooses to donate alcohol to the special nonprofit event may either (1) provide alcohol previously purchased from the supplier and invoice the appropriate supplier for the cost of the alcohol, together with the excise taxes paid or to be paid by the wholesaler; or (2) receive delivery of the donated alcohol from the supplier and bill the supplier for the excise tax paid or to be paid by the wholesaler;
- f. The wholesaler that is providing the alcohol must present an invoice to the nonprofit organization that includes (1) a listing of the types of alcohol and the alcohol brands that have been donated to the event; (2) the wholesaler's regular price to retailers for the alcohol donated; and (3) the name and address of the supplier or wholesaler that has donated the alcohol;
- g. The wholesaler shall transfer the donated alcohol to the nonprofit organization only after presentation of the original special nonprofit event license and the delivery of the wholesaler's invoice to the nonprofit organization; and
- h. The nonprofit organization licensed to hold the special nonprofit event must maintain any and all invoices for alcohol donated or purchased for the event. The invoices must be available at the event upon request of the South Carolina Law Enforcement Division.

Soliciting Other Services and Items.

A nonprofit organization may solicit from a supplier, and a supplier may provide, the following services and items, with or without charge, for use at a special nonprofit event without violating Code Sections 61-4-735, 61-4-940, or Chapter 6, Title 61:

- a. Individual employees, agents, owners, or members of a supplier to pour and serve alcohol, if each of these individuals has received training from an alcohol education

training program recognized by the Department and posted on the Department's website;

- b. Point of sale advertising specialties, as defined by federal law and regulations; and
- c. Equipment used to dispense alcohol for sale for on-premises consumption. A wholesaler shall not provide individual employees, owners, or members of a wholesaler to pour or serve alcohol at a special nonprofit event. A wholesaler is also prohibited from providing any services not authorized by Code Sections 61-4-735, 61-4-940, or 61-6-1300.

Unassigned Territory.

If a brand of beer is registered in South Carolina, but not yet assigned to a wholesaler for the territory where the special nonprofit event is to be held, a producer or importer may deliver the beer to a willing wholesaler who operates in that territory, along with the appropriate excise tax and proof of registration, and the wholesaler may provide such delivered beer for the event.

Brewpubs.

Brewpubs may donate beer that is brewed at the brewpub to a nonprofit organization holding a special nonprofit event pursuant to the requirements of Code Section 61-2-185. The brewpub must deliver the donated beer and the appropriate state excise tax to a willing wholesaler that operates in the territory where the event is to be held. The wholesaler shall transfer the donated beer to the nonprofit organization in accordance with the provisions of Code Section 61-2-185.

No Assignment of Territory from Donation and Delivery.

Donations of brewpub beers, and beer brands that are registered in South Carolina but not yet assigned to wholesaler, and deliveries of such beers by the brewpub, producer, or importer, shall not operate as an assignment of territory to the wholesaler and shall not be considered violations of Article 13 or Article 17, Chapter 4, Title 61.

Effective Date: November 19, 2017

Act No. 45 – Alcohol License Requirements (Title 61)

Alcoholic Beverage On-Premises License or Permit Holders – New Requirement for Liability Insurance

Code Section 61-2-145 was added to require a person licensed or permitted to sell alcoholic beverages for on-premises consumption, which remains open after 5 p.m. to sell alcoholic beverages for on-premises consumption, to maintain at least \$1 million of liquor liability

insurance or general liability insurance with a liquor liability endorsement during the period of the biennial permit or license. Failure to maintain this coverage constitutes grounds for suspension or revocation of the permit or license. For purposes of Code Section 61-2-145, “alcoholic beverages” means beer, wine, alcoholic liquors, and alcoholic liquor by the drink as defined in Chapters 4 and 6 of Title 61.

The Department is required to add this insurance requirement to all applications and renewals for biennial permits or licenses to sell alcoholic beverages for on-premises consumption in which the permittees and licensees remain open and sell alcoholic beverages for on-premises consumption after 5 p.m.

Beginning July 1, 2017, each applicant or person renewing its license or permit, to whom this requirement applies, shall provide the Department with documentation of a liquor liability insurance policy, or a general liability insurance policy with a liquor liability endorsement, with the required amount of coverage.

Insurers writing such policies to a person licensed or permitted to sell alcoholic beverages for on premises consumption, where the person remains open to sell alcoholic beverages for on premises consumption after 5 p.m., must notify the Department in a manner prescribed by Department regulation of the lapse or termination of such policy.

Any person applying for a new biennial permit or license for on-premises consumption under Title 61, and any person renewing a biennial permit or license under Title 61, must comply with the provisions of Code Section 61-2-145 at the time of the application or renewal.

Effective Date: July 1, 2017

Act No. 50 – Breweries (Title 61)

Breweries and Brewpubs – Modified Insurance Requirement, Licensing and Permits

Breweries

Code Section 61-4-1515, which allows breweries to sell beer to consumers which is brewed on the permitted premises, has been amended. The amendments include the following:

1. The insurance requirement was modified to require at least \$1 million of liquor liability insurance or general liability insurance with a liquor liability endorsement. Previously, there was no requirement for specialized liquor liability coverage.
2. This amendment allows breweries to use alcohol enforcement training approved by the Department to train employees, whereas previously, they could only use training approved by the Department of Alcohol and Other Drug Abuse Services.

3. Code Section 61-4-1515(B)(2) was added to provide that breweries that have a Department of Health and Environmental Control approved and licensed food establishment on its premises as provided in Code Section 61-4-1515(B)(1) may now apply for a license to sell alcoholic liquor by the drink for on-premises consumption within a specified area of its licensed or permitted premises, physically partitioned from the brewing operation and designated for the purpose of engaging substantially and primarily in the preparation and serving of meals. Additionally, the brewery must:
 - a. Maintain compliance with all provisions of Code Section 61-6-1610 and all other provisions of Chapter 6 regulating the purchase and sale by food establishments of alcoholic liquor by the drink for on-premises consumption not inconsistent with other provisions of Code Section 61-4-1515;
 - b. Not sell or allow the consumption of alcoholic liquor by the drink on that part of the brewery's premises designated and permitted for the brewing operation;
 - c. Maintain books, records and bank accounts of the restaurant operation separately from the books, records and bank accounts of the brewing operation, and allocate expenses common to both operations in a manner the brewery considers reasonable, when applicable; and
 - d. Maintain a physical partition between the brewing and food establishment operations. The physical partition may be a permanent wall or a divider permanently affixed to the premises in a manner that the general public may not freely enter the brewing operation, and may contain a door or doors which remain locked during hours when the brewery is not in operation.
4. Code Section 61-4-1515(C) now provides that if a brewery ceases its brewing operations on its permitted premises, the Department shall terminate and the brewery must surrender its permits and licenses issued pursuant to Code Section 61-4-1515(B), including those for food establishments. A brewery may reapply for these permits and licenses upon reinstatement of brewing operations on the formerly permitted premises.

Brewpubs

Brewpubs may obtain a brewery permit, and other licenses and permits available to breweries pursuant to Code Section 61-4-1515(B), for the brewpub's existing permitted premises. The Department shall waive newspaper notice and sign posting requirements, except for alcoholic liquor by the drink applications where the brewpub does not possess this license at the time of application. However, with the exception of operations authorized by Code Section 61-4-1515(B), the Department must deny the brewpub's application if the applicant, or any principal or person acting directly or indirectly on behalf of the applicant, would have ownership or

financial interest in a wholesale or retail beer, wine, or alcoholic liquor operation following the issuance of the brewery permit.

A brewpub that becomes a brewery pursuant to Code Section 61-4-1515 must surrender its brewpub permit and alcoholic liquor by the drink license previously issued for the premises at the same time it obtains the brewery permit and applicable permits or licenses authorized pursuant to Code Section 61-4-1515(B).

Note: Senate Bill 275 and House Bill 3137, which were ratified on the same day (as Act Nos. 50 and 62, respectively), have different language for Code Section 61-4-1515. The Code Commissioner has informed us in determining the legislative intent, his intent is to read the Acts together and include Code Sections 61-4-1515(A) and (B)(1) as amended in Sections 6 and 7 of Act No. 62 and Code Sections 61-4-1515(B)(2) through (G) as amended in Section 1 of Act No. 50.

Effective Date: May 19, 2017

Act No. 62 – Sale of Alcoholic Liquors (Title 61)

Retail Dealer License – Repeal of Three-License Limit – Repeal of Retailer Tasting Restriction

Code Sections 61-6-140 and 61-6-150, which limit a licensee to three retail liquor store licenses, have been amended to eliminate the three-license limit on April 5, 2018. The amendments include the following.

Prior to April 5, 2018, the Department must not issue more than three retail dealer licenses to one licensee in accordance with Code Section 61-6-140 and the limitations of Code Section 61-6-150. The licensee must be eligible for a license for each store pursuant to Code Section 61-6-110. However, the three-license limit in Code Section 61-6-140 and the limitations of Code Section 61-6-150 do not apply to a person having an interest in retail liquor stores as of July 1, 1978.

In addition, Code Section 61-4-960(A)(13) prohibits a retailer (who is authorized to sell beer for off-premises consumption and whose primary product is beer or wine) from holding a beer tasting in conjunction with a tasting in a retail alcoholic liquor store, pursuant to Code Section 61-6-1035, that is adjacent to and licensed in the same name of the retail permit authorizing the sale of beer. Code Section 61-4-960(A)(13) will also be repealed on April 5, 2018.

Repeal of Code Sections: Code Sections 61-6-140, 61-6-150, and 61-4-960(A)(13) will be repealed on April 5, 2018.

Effective Date: May 19, 2017

Tastings and Retail Sales of Micro-Distillers and Manufacturers – Revised Limits and Permits

Code Sections 61-6-1140 and 61-6-1150, concerning tastings and retail sales at micro-distilleries and manufacturing facilities, were amended to make the following changes.

Tastings

1. The one-half ounce per sample limit was removed, and the 1.5 ounce daily limit on alcoholic liquors dispensed to an individual consumer was increased to 3 ounces.
2. Micro-distilleries and manufacturers may now provide mixers, which must be nonalcoholic and carry zero percent of alcohol by weight, in conjunction with a tasting. The microdistillery or manufacturer may store mixers used for tastings, but may not charge for the mixers.
3. Minors are forbidden from entering the portion of the facility where tastings are occurring.

Retail Sales

Retail sales of alcoholic liquors produced at a micro-distillery's or a manufacturer's licensed premises are no longer limited to only 750 milliliter bottles. While this restriction has been removed, the limit on daily sales per consumer remains at 2.25 liters, and the bottles must be marked "not for resale."

Effective Date: May 19, 2017

Sampling at Retail Liquor Stores – Use of Mixers Permitted

Code Section 61-6-1035 was amended to permit the use of mixers for samplings of wine containing over 16% by volume of alcohol, cordials, and other distilled spirits sold in a retail alcoholic liquor store. Mixers must be nonalcoholic and carry zero percent alcohol by weight. While mixers may be provided in conjunction with a tasting, the mixers must be provided free of charge. Mixers that are used in conjunction with tastings may be stored on premises, but not sold.

Effective Date: May 19, 2017

Act No. 68 – Maintenance Tax Imposed by Workers' Comp Commissions (Admissions Tax Exemption)

Admissions Tax Exemption for Payment to Nonprofit Athletic Booster Organizations for Right to Purchase Athletic Event Season Tickets – Prior Proviso Codified

Article 17, Chapter 21 of Title 12 provides for an admissions tax of 5% on paid admissions to places of amusement within South Carolina. Code Section 12-21-2420(4) provides that the admissions tax applies to paid admissions to all athletic events of any institution above the high school level.

Code Section 12-21-2420 was amended to codify that any amount that an accredited college or university requires a season ticket holder to pay to a nonprofit athletic booster organization to receive the right to purchase athletic event tickets is exempt from admissions tax. The nonprofit athletic booster organization must be exempt from federal income taxation. This exemption had been a temporary proviso in the budget bill in past years.

Effective Date: July 1, 2017

Act No. 97 – Appropriations Bill (Provisos)

State Ports Authority – Distribution Facility Eligibility

This temporary proviso provides that the State Ports Authority shall be considered a distribution facility for the purpose of sales tax exemptions associated with the purchase of equipment and 25 construction materials. Note: Sales tax exemptions implicated by this proviso include Code Sections 12-36-2120(51) and (67).

Effective Date: This temporary proviso is effective for State fiscal year July 1, 2017 through June 30, 2018. It will expire June 30, 2018, unless reenacted by the General Assembly in the next legislative session.



State and Local Tax Case Law Update

SOUTH CAROLINA BAR CONVENTION – JANUARY 20, 2018

Jason Luther, General Counsel for Litigation

Jason.Luther@dor.sc.gov

Overview

- New faces at SCDOR
- Case law updates
 - Revenue Procedures Act
 - ABL
 - Sales Tax
 - Criminal
 - Corporate
- Questions

New Faces at SCDOR

- Hartley Powell, Director



- Jason Luther, General Counsel for Litigation
- John Pressley, Chief of Staff
- Andrew Saleeby, Sr. State Tax Attorney



Case Law Update
*Or, Top ~~10~~ 11 Things I've Learned After 6
Months at SCDOR*

Disclaimer

The opinions expressed in this presentation are the author's alone and should not be attributed to the South Carolina Department of Revenue.

Revenue Procedures Act



11. If SCDOR assesses or collects it, it's a tax...

- Brad Lightner v. SCDOR et al., 419 S.C. 357, 798 S.E.2d 555 (2017)

Issues: Is the South Carolina Revenue Procedures Act limited to property tax disputes? Can taxpayers maintain a class action against SCDOR?

- §12-21-2520(4) – admission tax and nonprofit members
- §12-60-30(27) – definition of tax
- §12-60-80(C) – no class action for tax refund

ABL



10. ABC is not as easy as 1-2-3...

- Retail Services & Systems, Inc. v. SCDOR, 419 S.C. 469, 471 (2017)

Issue: Is the three license limit constitutional?

- S.C. Code 61-6-140 and -150 – three liquor license limit
- S.C. Constitution Article VIII-A §1 – regulate liquor mandate
- Supreme Court – economic protectionism

ABL

9. Public Protests can be effective after all...

- Kan Enterprises, Inc. v. SCDOR, 420 S.C. 596 (Ct. App. 2017)

Issue: Can SCDOR deny an off-premises permit renewal without proving that conditions at the proposed location are worse than at the time of the initial issuance?

- Testimony that location posed undue burden on law enforcement
- No vested interest in a beer and wine permit

Property Tax

8. Ad valorem is easier said than done...

- CSX Transportation, Inc. v. SCDOR, 851 F.3d 320 (4th Cir. 2017)



Issue: Does South Carolina's tax treatment of railroad property violate federal law that bars states and localities from discriminatory taxation of rail carriers?

- 49 U.S.C. §11501 (4-R Act)
- Unit valuation and SC Valuation Act (S.C. Code §12-37-3110 et seq.)
- District Court – S.C. Act does not “impose a tax”

Sales Tax



7. There is nothing charitable about political subdivisions...

- Greenville Hospital System v. SCDOR, 13-ALJ-17-0523-CC (Final Order, May 8, 2017)

Issue: Whether GHS is entitled to a sales tax exemption for meals sold in its on-site hospital dining facilities on the grounds that it is a charitable organization

- §12-37-220(A)(1)
- §12-37-220(A)(4)
- §12-37-220(B)(16)(A)
- ALC – GHS cannot be both a political subdivision and charitable org

Sales Tax



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6. It only costs \$25 to become a member of the Millionaire Club...

- Books-a-Million v. SCDOR, 16-ALJ-17-0113-CC (June 6, 2017)

Issue: Are the proceeds from Books-a-Million's sales of Millionaire's Club memberships subject to sales tax?

- §12-36-920(A)
- §12-36-60
- ALC – membership fees constitute value accruing from sale of TPP

Sales Tax

5. More saving + more doing = less taxing

- Home Depot, Inc. d/b/a The Home Depot v. SCDOR



Issue: Must Home Depot pay sales tax on retail price of materials it withdraws from its inventory and sells as part of its installation program?

- §12-36-90(1)(c)
- 27 S.C. Code Ann. Regs 117-309.17 (2012)
- Similar to Lowe's case tried in 2016; awaiting decision

Multi-State Corporate Income Tax – Sourcing

4. IPA is not a hoppy beer...

- DIRECTV Inc. & Subsidiaries v. SCDOR, 804 S.E.2d 233 (Ct. App. 2017)

Issue: How much of DIRECTV's subscription receipts from South Carolina subscribers should be sourced to the numerator of the gross receipts ratio?

- Apportionment
- IPA
- 4 value drivers
- Ct of App – Preparatory activities not IPA



Criminal

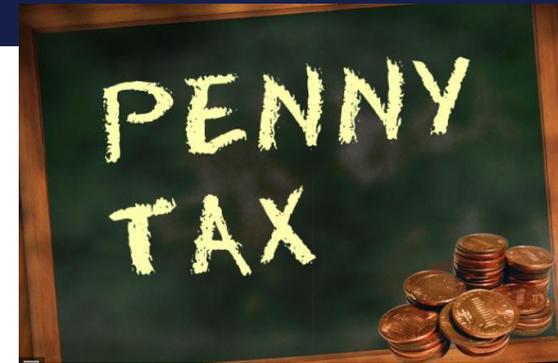
3. We do criminal prosecutions, too...

- State v. Hughes, Appellate Case No. 2015-002073

Issue: Does South Carolina recognize the crime of felony tax evasion?

- §12-54-44
- Should specific statutory provision control the more general provision?
- Court of Appeals – awaiting oral argument

Miscellaneous



2. A hundred billion pennies ~~saved~~ taxed are a hundred billion pennies ~~earned~~ [allegedly] [mis]spent...

- Richland County v. SCDOR et al., 2016-CP-40-03102 (June 30, 2016)

Issue: Does SCDOR have standing to assert certain claims against Richland County?

- “Transportation Act or “Penny Tax Act”
- Procedural puzzle
- Standing – statutory authority; special interest; public importance exception
- Supreme Court – awaiting decision

1. What we do at SCDOR echoes in the White House...

- Amazon Services, LLC v. SCDOR

Issue: Is Amazon Services, LLC a person in the business of selling personal property at retail and, thus, subject to Sales and Use Tax?

- Distribution Facility Sales Tax Exemption
- §12-36-70 - “retailer” and “seller”
- §12-36-100 - “sale”
- §12-36-100 – tax on gross proceeds
- Regs. 117-319 (2012): retail sales include sales of goods held on consignment
- Is Amazon just a mall or service provider?



Amazon Services, LLC v. SCDOR



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

taxes on transactions by our third-party sellers. We believe the assessment is without merit. If South Carolina or other states were successfully to seek additional adjustments of a similar nature, we could be subject to significant additional tax liabilities. We intend to defend ourselves vigorously in this matter.



(State or other jurisdiction of incorporation or organization)

(I.R.S. Employer Identification No.)

410 Terry Avenue North, Seattle, Washington 98109-5210
(206) 266-1000

(Address and telephone number, including area code, of registrant's principal executive offices)



Questions and Contacts

- Jason Luther
 - Email: Jason.Luther@dor.sc.gov
 - Phone: 803-898-5785

- Stay Connected with SCDOR
 - Twitter: [@SCDOR](https://twitter.com/SCDOR)
 - Facebook: [/dor.sc.gov](https://www.facebook.com/dor.sc.gov)



South Carolina Bar

Continuing Legal Education Division

2018 SC BAR CONVENTION

Tax Law Section

Saturday, January 20

Property Tax Update: Assessable Transfers of
Interest and 4% Assessment

David H. Kunes

PROPERTY TAX OVERVIEW AND UPDATE:
4% ASSESSMENT FOR LEGAL RESIDENCE AND ASSESSABLE TRANSFERS OF
INTEREST

By

David H. Kunes, Esq. ¹
Evans, Carter, Kunes & Bennett, P.A.
Charleston, South Carolina

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1. OVERVIEW

a. South Carolina Constitution.

- i. The South Carolina Constitution grants the General Assembly the authority to establish laws regarding “the ad valorem taxation by the State or any of its subdivisions of all real and personal property” at an “equal and uniform assessment.” Article X, Section 1 (Vol. 21).
- ii. In the context of real property used as a legal residence, the Constitution mandates that the “the legal residence and not more than five acres contiguous thereto shall be taxed on an assessment equal to four percent of the fair market value of such property”. Article X, Section 1 (Vol. 21).
- iii. Notably, in Section 6, the Constitution provides that “[f]or the tax year beginning 2007, each parcel of real property in this State shall have a maximum value for ad valorem taxes that does not exceed its fair market value” and authorizes the General Assembly, “by general law, to define ‘fair market value’ and to define when property has been improved or when losses have occurred to change the value of the real property. Article X, Section 6 (Vol. 21).
- iv. Finally, the Constitution imposes a limit that prevents counties from increasing the value of real property more than 15% every five years unless an assessable transfer of interest occurs. Improvements are excluded from this 15% limit. Article X, Section 6 (Vol. 21).
 1. For example, if the property tax value on 12/31/2008 is \$1,000,000 and, on 12/31/2013 (the next countywide reassessment valuation date), the fair market value of the property is \$2,000,000, then, for property tax purposes, the property tax value will be \$1,150,000.

b. Countywide Reassessment. South Carolina law requires that all property be reassessed and equalized once every five years. Specifically, in the context of residential real property, the County Assessor is required to value all real property by the end of the fourth year of a five year reassessment period and to implement the reassessment in the fifth year. Section 12-43-217(A). A County may postpone by ordinance the implementation of the reassessed values for one property tax year. Section 12-43-217(B).

- i. In Charleston County, the last countywide reassessment occurred in 2015 with a uniform valuation date of 12/31/2013. Thus, during the 2014 property tax year, the Charleston County Assessor’s office undertook to reappraise all real property using proper appraisal techniques. Then, in September of 2015, the County provided taxpayers with a “Notice of Classification, Appraisal, & Assessment of Real Estate 2015 Tax Year” in which it provided the taxpayers information regarding the revised property tax values for the 2015 tax year.

c. South Carolina Real Property Valuation Reform Act (2006). In 2006, the Real Property Valuation Reform Act was signed into law and substantially reformed how counties would value property following an “assessable transfer of interest

(ATI)". Section 12-37-3130(4) defines an "assessable transfer of interest" as a "transfer of an existing interest in real property that subjects the real property to appraisal." In Section 12-37-3150, the statute provides in Paragraph (A) a laundry list of transfers that are considered "an assessable transfer of interest" except for certain exceptions and then defines in Paragraph (B) all of the transfers that are not assessable transfers of interests. However, if an ATI occurs during a property tax year, the statute requires that the property be revalued as of December 31st of that property tax year, notwithstanding the value established in the most recent countywide reassessment.

- i. Example: John owns a primary residence in Charleston County and sells his property to Jane on December 15, 2014. Under the South Carolina Real Property Valuation Reform Act, the sale of the property is an ATI. In 2015, Jane receive a Notice of Classification Notice of Classification, Appraisal, & Assessment of Real Estate 2015 Tax Year. The reassessed tax value is based on the value of the residence as of December 31, 2014, not December 31, 2013 (the uniform valuation date for the Charleston County countywide reassessment).
- d. Point of Sale Legislation. In 2011, the Real Property Valuation Reform Act was amended to provide an exemption of twenty-five percent (25%) of the market value of certain real property (i.e., commercial and non-primary residences) when an ATI occurs. To illustrate the application of this 25% exemption, consider the following example. If property is valued at \$1,000,000 in the latest countywide reassessment and, over the next five years, the fair market value of the property has increased to \$2,000,000, the county would be limited to a property tax value of \$1,150,000 because of the 15% cap. However, if an ATI occurs (e.g. a sale to a developer), then the property tax value should be the current fair market value of \$2,000,000. To minimize the impact of the ATI legislation, the 2011 amendment requires a reduction in the property tax value by 25%, yielding a property tax value of \$1,500,000 (or 75% of \$2,000,000). The owner of the property has the burden of notifying the county assessor before January 31 of the tax year of the claimed exemption.

2. BASICS OF REAL PROPERTY TAXATION

- a. Lien Date. The owner of the real property as of December 31st of the prior year is liable for the payment of taxes on the real property. S.C. Code §12-37-610.
- b. Due Date of Tax: Section 12-45-70 provides that the taxes on real property are due and payable between the thirtieth day of September and the fifteenth day of January after their assessment in each year. In short, a taxpayer has until January 15th of the following year in which to pay the tax for the real property for the prior taxable year.
- c. Fair Market Value: Section 12-37-930 states: "All property must be valued for taxation at its true value in money which in all cases is the price which the property would bring following reasonable exposure to the market, where both the seller and the buyer are willing, are not acting under compulsion, and are

reasonably well informed of the uses and purposes for which it is adapted and for which it is capable of being used.”

- d. Assessment Ratio: All real property is assessed at a 6% rate unless it qualifies for the preferential legal residence rate of 4%.
- e. Millage Rate: The millage rate for each county is determined by dividing the county’s annual budget by the total assessed value of the property within the jurisdiction. Within each county, there is a breakdown of the various government agencies responsible for millage and tax dollars. As a primer, 1,000 “mills” is equal to \$1.00.
- f. Calculation of Tax:
 - i. Assessed Value multiplied by Assessment Ratio multiplied by Millage Rate
 - ii. Tax Calculator. The Charleston County Auditor’s Office has provided a sample tax calculator.
<https://www.charlestoncounty.org/departments/auditor/tax-estimator.php>

3. 4% LEGAL RESIDENCE STATUS

- a. Benefit of Legal Residence Status: The two primary benefits of legal residence status are (i) the reduction in the assessment ratio from 6% to 4% and (ii) a credit for taxes imposed for school operating purposes.
 - i. Section 12-43-220(47)(a) provides that “[e]ffective for property tax years beginning after 2006 and to the extent not already exempt pursuant to Section 12-37-250, one hundred percent of the fair market value of owner-occupied residential property eligible for and receiving the special assessment ratio allowed owner-occupied residential property pursuant to Section 12-43-220(c) is exempt from all property taxes imposed for school operating purposes but not including millage imposed for the repayment of general obligation debt.
- b. General Requirements. Section 12-43-220(c)(1) provides in relevant part as follows: “the legal residence and not more than five acres contiguous thereto, when owned totally or in part in fee or by life estate and occupied by the owner of the interest, and additional dwellings located on the same property and occupied by immediate family members of the owner of the interest, are taxed on an assessment equal to four percent of the fair market value of the property. If residential real property is held in trust and the income beneficiary of the trust occupies the property as a residence, then the assessment ratio allowed by this item applies if the trustee certifies to the assessor that the property is occupied as a residence by the income beneficiary of the trust.
- c. Ownership and Occupation Requirements. Pursuant to 12-43-220(c)(2)(i), “to qualify for the special property tax assessment ratio allowed by this item, the owner-occupant must have actually owned and occupied the residence as his legal residence and been domiciled at that address for some period during the applicable tax year. A residence which has been qualified as a legal residence for any part of the year is entitled to the four percent assessment ratio provided in this

item for the entire year, for the exemption from property taxes levied for school operations pursuant to Section 12-37-251 for the entire year, and for the homestead exemption under Section 12-37-250, if otherwise eligible, for the entire year.”

- d. Certification; Burden of Proof. As part of the application for legal residence status, the taxpayer must certify to the county assessor that the residence is the taxpayer’s “legal residence” and that the taxpayer, nor any member of the taxpayer’s household (i.e., the owner-occupant's spouse, except when that spouse is legally separated from the owner-occupant; and any child under the age of eighteen years of the owner-occupant claimed or eligible to be claimed as a dependent on the owner-occupant's federal income tax return), claim to be a legal resident of a jurisdiction other than South Carolina and none of the foregoing individuals claims the 4% legal residence status on another residence.
 - i. Section 12-43-220(c)(2)(iv) provides that the taxpayer has the burden of proof for eligibility and requires the taxpayer to provide a copy of the South Carolina income tax return, vehicle registrations, and such “other proof required by the assessor necessary to determine eligibility.”
- e. Penalty. If the taxpayer make the 4% legal residence certification, receives the property tax benefit, but is later determined not eligible, Section 12-43-220(c)(2)(vii)(A) imposes a penalty of one hundred percent of the tax paid, plus interest at 0.5% per month, not to exceed the current year’s taxes.
- f. Rental Restrictions: A taxpayer can rent his primary residence for not more than seventy-two (72) days in a calendar year and still qualify for the 4% legal residence status. Section 12-43-220(c)(iv)
- g. 50% Ownership Rule. Subject to certain exceptions explained below, if a taxpayer owns less than fifty percent (50%), in fee simple, of the real property and otherwise qualifies for the 4% legal residence status, Section 12-43-220(c)(8)(i) does not allow the taxpayer to obtain the 4% legal residence classification ratio for the entire value of the parcel; rather, the fraction of ownership is applied for purposes of the 4% legal residence benefit. Thus, in general, if a taxpayer owns more than 50% of the real property, the taxpayer can obtain the preferential 4% legal residence status for the entire value of the property.
 - i. Exception #1. If the taxpayer owns less than fifty percent (50%) but more than twenty-five percent (25%) of the property, the remaining ownership interests in the property are owned by “immediate family members”, and the applicant is not a “member of a household” that is current receiving the 4% legal residence status on another property, then the applicant can qualify for the 4% legal residence status on the entire property.
 - ii. Exception to Exception #1. In 2014, subsection (iii) to section (c)(8) was passed specifically to exclude from the application of (c)(8) property held exclusively by the following owners: “(A) an applicant, or the applicant and the applicant's spouse (B) a trust if the person claiming the special four percent assessment ratio is the grantor or settlor of the trust, and the only beneficiaries of the trust are the grantor or settlor and any parent, spouse, child, grandchild, or sibling of the grantor or settlor; (C) a family

limited partnership if the person claiming the special four percent assessment ratio transferred the subject property to the partnership, and the only members of the partnership are the person and the person's parents, spouse, children, grandchildren, or siblings; (D) a limited liability company if the person claiming the special four percent assessment ratio transferred the subject property to the limited liability company, and the only members of the limited liability company are the person and the person's parents, spouse, children, grandchildren, or siblings; or (E) any combination thereof. This section became effective for property tax years beginning after 2011 and authorized refunds for the 2012 and 2013 property tax years for those persons who now qualified under this exception to the exception.

h. Planning Considerations and Other Notable Items:

- i. Ownership for Portion of Year. Pursuant to Section 12-43-220(c)(2)(i), if a taxpayer owns and occupies a primary residence for at least one day during the property tax year, the taxpayer can qualify for the 4% legal residence status for the entire year. For example, if your client purchases a home on December 15 from a seller who did not otherwise qualify for the 4% legal residence and promptly moves into the residence before the end of the year. As long as the purchaser lives in the residence for at least one day of that property tax year and otherwise satisfies the 4% legal residence requirements, the purchaser can obtain the benefit of the 4% legal residence classification ratio for the entire year. Note that, as part of the closing, the seller and purchaser may have entered into a tax proration agreement and the seller may be entitled to receive a prorated share of the tax benefit obtained from the 4% legal residence status. Consider the converse of the foregoing example, if your client purchases a property as a second home from a seller who did qualify for the 4% legal residence status, your client gets the benefit of the 4% legal residence status for that property tax year. In the following tax year, the County will send your client a notice that an assessable transfer of interest has occurred and will remove the 4% legal residence status.
- ii. Refunds. Section 12-54-85F permits a taxpayer to file a refund claim for up to 2 years from the date of the payment of the tax. The taxpayer has the burden of proof of establishing legal residence status, which generally includes all of the objective criteria required in connection with a 4% legal residence application (i.e., drivers licenses, vehicle registration, voter registration, federal and state income tax returns), plus obtaining letter of “responsibility” or “connect” from utilities companies (water; electricity).
- iii. Single Member LLC. In *CFRE, LLC v. Greenville County Assessor*, 395 S.C. 67, 716 S.E.2d 877 (2011), the South Carolina Supreme Court held that a disregarded single member LLC that owned real property was eligible to apply for and receive the 4% legal residence status. Section 12-2-25(B) provides that “[f]or South Carolina tax purposes: (1) a single-member limited liability company, which is not taxed for South Carolina

income tax purposes as a corporation, is not regarded as an entity separate from its owner.” In essence, the court reasoned that this statute requires the County to ignore the LLC form and, thus, the individual single member is eligible to receive the preferential 4% legal residence status, provided he or she otherwise satisfies the other statutory requirements. Although the Court does not specifically address Section 12-2-25(B)(3), which provides that “a grantor trust, to the extent that it is a grantor trust, is not regarded as an entity separate from its grantor,” the same legal analysis should apply to grantor trusts.

- iv. Qualified Personal Residence Trusts: A common estate planning technique involves the establishment of a qualified personal residence trust (QPRT). Typically, the parent, as grantor, transfers the primary residence into a trust and retains the right to live in the property for some period of time, thereby making a gift of the remainder interest to the remainder beneficiaries (typically, the children). At the end of the term, the Trustee transfers the property by deed to the remainder beneficiaries. Instead of having the children receive the property outright and free of trust, consider designing the QPRT so that the property remains in trust for the benefit of children that, for tax purposes, is considered a “grantor trust”. Pursuant to Section 12-2-25(B)(3), a grantor trust is not regarded as an entity separate from the grantor. Thus, if the trust is not regarded as an entity separate from the grantor, then, for tax purposes, the grantor is treated as the owner of the property. As the owner of the property for tax purposes, assuming the grantor/taxpayer is otherwise able to qualify for the 4% legal residence status, the grantor/taxpayer is able to obtain the preferential 4% legal residence status.
 1. Planning tip: If the grantor wants to reside in the primary residence following the expiration of the initial term, the trustee and grantor should enter into an arm’s length lease of the property to minimize the argument that the grantor has retained §2036 or §2038 power that would cause the value of the property to be included in the grantor’s estate for estate tax purposes. Further, since the grantor trust is not regarded as an entity separate from the grantor, the lease payments are not considered taxable income.
- v. Family LLCs and Limited Partnerships. As stated above, in 2014, subsection (iii) was passed to ameliorate an estate planning problem. For many years and prior to the enactment of the current statutes, a taxpayer was eligible to receive the 4% legal residence status if the taxpayer owned at least a 1% interest in the real property. For estate planning reasons, it was common practice to transfer the remaining 99% interest in real property to a “family” limited liability company or limited partnership and to transfer interests in such entity to the children or grandchildren. When Section (c)(8) was passed, numerous clients that had engaged in this type of planning were no longer eligible to receive the 4% legal residence status. Subsection (iii) “cures” this problem by permitting transfers of

- interests in Family LLCs and Limited Partnerships among family members provided that the person who transferred the property into the LLC or partnership is the person claiming the 4% legal residence status.
- vi. Life Estate. Section 12-43-220(c) permits holders of life estates to apply for and receive the 4% legal residence status. For transfer tax purposes, the value of a life estate in real estate is worth considerably less than the value of a fee simple interest in real estate. Suppose that, as a result of what would have been very good estate planning at the time of drafting 25 years ago, at dad's death today, the sole child is devised the primary residence in which mom is still residing. Dad's death and the deed transfer to child causes mom to become ineligible to receive the 4% legal residence status on the primary residence she has lived in for decades. Instead of daughter making a \$500,000 taxable gift of the primary residence, consider having daughter give mom a life estate in the property for the balance of mom's life. Suppose that Mom is age 80, the value of a life estate in a \$500,000 residence, under the actuarial tables, is approximately \$81,000. Thus, the child could make a gift of the life estate interest to Mom for a transfer tax cost of only \$81,000. Query whether you could give Mom a 50% interest in life estate in the property as a way of further reducing the gift tax cost?
- vii. Incomplete Gift Trust. Section 12-43-220(c) permits "the income beneficiary" of a trust that owns real property to obtain the preferential 4% legal residence status if the trustee certifies to the assessor that the property is occupied as a residence by the income beneficiary of the trust. Suppose that Mom and Dad, who live in New York, purchase a second home in South Carolina as an investment or vacation property but then decide to allow their adult son, who is a South Carolina resident and does not own real property for which he receives the 4% legal residence rate, to live in the property on a full time basis. For estate planning purposes, Mom and Dad do not want to make an outright gift of the property to son so that he can obtain the 4% legal residence. Consider whether Mom and Dad can establish a trust for the benefit of son, as the income beneficiary, but retain the power to direct what happens to the trust property so as not to make a completed gift of the property for transfer tax purposes. As the income beneficiary of the trust, Section 12-43-220(c) permits the son to obtain the 4% legal residence property tax rate.
- viii. Boat and Recreational Vehicle as Primary Residence? Section 12-37-224 provides that a motor home and boat, both of which would otherwise be personal property subject to the 10.5% assessment ratio, can be a primary residence or secondary residence. Notably, if a taxpayer has more than one boat or watercraft "that contains a cooking area with an onboard power source, a toilet with exterior evacuation, and a sleeping quarter" the taxpayer can qualify one boat as his primary residence (eligible for the 4% legal residence status) and one boat as his secondary residence (eligible for the 6% classification).

4. ASSESSABLE TRANSFERS OF INTEREST

- a. General. In 2006, the South Carolina Real Property Valuation Reform Act was passed into law. In essence, the Real Property Valuation Reform Act is intended to apply a more uniform set of rules in the determination of property tax values. Section 12-37-3140 provides that the “fair market value of real property is its fair market value applicable for the later of:
- i. (a) the base year, as defined in subsection (C) of this section;
 - ii. (b) December thirty-first of the year in which an assessable transfer of interest has occurred;
 - iii. (c) as determined on appeal; or
 - iv. (d) as it may be adjusted in a countywide reassessment program conducted pursuant to Section 12-43-217, but limited to increases in such value as provided in subsection (B) of this section.”

The base year, as defined in subsection (C) refers to the appraised value applicable for the 2007 property tax year, which is the value of the property as of December 31, 2006. Subsection (B) limits increases resulting from a countywide reassessment to fifteen percent (15%) within a five year period, provided, however, that the value of new improvements and additions are not subject to this limit.

- b. What is an Assessable Transfer of Interest? Section 12-37-3130(4) defines “assessable transfer of interest” as “a transfer of an existing interest in real property that subjects the real property to appraisal.” Although this definition provides little clarity of to what the term actually means, Section 12-37-3150 provides a list of a transfers that are included within the meaning of an “assessable transfer of interest” and a list of transfers that are not included with the meaning of an assessable transfer of interest.
- i. Planning tip. If you know the conveyance qualifies as an exception from the ATI rules, include a recital indicating the specific statutory authority!
 - ii. 12-37-3150(A) identifies the following conveyances as ATIs:
 1. a conveyance by deed;
 2. a conveyance by land contract;
 3. a conveyance to a trust, except if (a) the settlor or the settlor’s spouse, or both, conveys the property to the trust and the sole present beneficiary or beneficiaries are the settlor or the settlor’s spouse, or both; or (b) the settlor or the settlor’s spouse, or both, conveys property subject to the special four percent assessment ratio pursuant to Section 12 43 220(c) and the sole present beneficiary or beneficiaries is the child or children of the settlor or the settlor’s spouse, but a subsequent conveyance of this real property by the beneficiary child or children is not exempt from the provisions of this section;

4. a conveyance by distribution from a trust, except if the distributee is the sole present beneficiary or the spouse of the sole present beneficiary, or both;
5. a change in the sole present beneficiary or beneficiaries of a trust, except a change that adds or substitutes the spouse of the sole present beneficiary;
6. a conveyance by distribution under a will or by intestate succession, except if: (a) the distributee is the decedent's spouse; or (b) the distributee is the child or children of the decedent, the decedent did not have a spouse at the time of the decedent's death, and the property is subject to the special four percent assessment ratio pursuant to Section 12 43 220(c), but a subsequent conveyance of this real property by the distributee child or children is not exempt from the provisions of this section;
7. a conveyance by lease if the total duration of the lease, including the initial term and all options for renewal, is more than twenty years or the lease grants the lessee a bargain purchase option. As used in this item, "bargain purchase option" means the right to purchase the property at the termination of the lease for not more than eighty percent of the property's true cash value at the termination of the lease. This item does not apply to personal property or that portion of the property not subject to the leasehold interest conveyed;
8. a transfer of an ownership interest in a single transaction or as a part of a series of related transactions within a twenty five year period in a corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity if the ownership interest conveyed is more than fifty percent of the corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity. This provision does not apply to transfers that are not subject to federal income tax, as provided in subsection (B)(1), including, but not limited to, transfers of interests to spouses. The corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity shall notify the applicable property tax assessor on a form provided by the Department of Revenue not more than forty five days after a conveyance of an ownership interest that constitutes an assessable transfer of interest or transfer of ownership under this item. Failure to provide this notice or failure to provide accurate information of a transaction required to be reported by this subitem subjects the property to a civil penalty of not less than one hundred nor more than one thousand dollars as determined by the assessor. This penalty is enforceable and collectible as property tax and is in addition to any

other penalties that may apply. Failure to provide this notice is a separate offense for each year after the notice was required;

- a. Planning tip. For estate planning purposes, consider transferring the single member LLC that owns the real property into a grantor trust of which the single member is the grantor. Under Section 12-2-25(B)(3), for property tax purposes, the transfer between the grantor and grantor trust is ignored and, thus, the transfer should not trigger an ATI.
9. a change of use of agricultural real property which subjects it to the rollback tax;
10. a change of use of real property when classification of property changes as a result of a local zoning ordinance change; or
11. the passage of twenty years since the later of the base year or the last assessable transfer of interest for real property owned by a publicly held entity whose stock, shares, or other ownership interests are traded on a regulated exchange, a pension fund, or other similar entity.

An assessable transfer of interest resulting in the appraisal required pursuant to this article occurs at the time of execution of the instruments directly resulting in the transfer of interest and without regard as to whether or not the applicable instruments are recorded. Failure to record instruments resulting in a transfer of interest gives rise to no inference as to whether or not an assessable transfer of interest has occurred.

- iii. Section 12-37-3150(B) identifies the following conveyances as not ATIs
 1. transfers not subject to federal income tax in the following circumstances:
 - a. 1033 (Conversions Fire and Insurance Proceeds to Rebuild);
 - b. 1041 (Transfers of Property Between Spouses or Incident to Divorce);
 - c. 351 (Transfer to a Corporation Controlled by Transferor);
 - d. 355 (Distribution by a Controlled Corporation);
 - e. 368 (Corporate Reorganizations); or
 - f. 721 (Nonrecognition of Gain or Loss on a Contribution to a Partnership).
 2. a transfer of that portion of property subject to a life estate or life lease retained by the transferor, until expiration or termination of the life estate or life lease;
 3. a transfer through foreclosure or forfeiture of a recorded instrument or through deed or conveyance in lieu of a foreclosure or forfeiture, until the redemption period has expired;
 4. a transfer by redemption by the person to whom taxes are assessed of property previously sold for delinquent taxes;

5. a conveyance to a trust if the settlor or the settlor's spouse, or both, convey the property to the trust and the sole present beneficiary of the trust is the settlor or the settlor's spouse, or both;
6. a transfer for security or an assignment or discharge of a security interest;
7. a transfer of real property or other ownership interests among members of an affiliated group. As used in this item, "affiliated group" is as defined in Section 1504 of the Internal Revenue Code as defined in Section 12 6 40. Upon request of the applicable property tax assessor, a corporation shall furnish proof within forty five days that a transfer meets the requirements of this item. A corporation that fails to comply with this request is subject to a civil penalty as provided in Section 12 37 3160(B);
8. a transfer of real property or other ownership interests among corporations, partnerships, limited liability companies, limited liability partnerships, or other legal entities if the entities involved are commonly controlled. Upon request by the applicable property tax assessor, a corporation, partnership, limited liability company, limited liability partnership, or other legal entity shall furnish proof within forty five days that a transfer meets the requirements of this item. A corporation, partnership, limited liability company, limited liability partnership, or other legal entity that fails to comply with this request is subject to a civil penalty as provided in Section 12 37 3160(B);
9. a transfer of an interest in a timeshare unit by deed or lease;
10. a transfer of an undivided, fractional ownership interest in real estate in a single transaction or as a part of a series of related transactions, if the ownership interest or interests conveyed, or otherwise transferred, in the single transaction or series of related transactions within a twenty five year period, is not more than fifty percent of the entire fee simple title to the real estate;
11. a transfer to a single member limited liability company, not taxed separately as a corporation, by its single member or a transfer from a single member limited liability company, not taxed separately as a corporation, to its single member, as provided in Section 12 2 25(B)(1);
12. a conveyance, assignment, release, or modification of an easement, including, but not limited to:
 - a. a) a conservation easement, as defined in Chapter 8, Title 27;
 - b. a utility easement; or
 - c. an easement for ingress, egress, or regress;
13. a transfer or renunciation by deed, release, or agreement of a claim of interest in real property for the purpose of quieting and confirming title to real property in the name of one or more of the

existing owners of the real property or for the purpose of confirming or establishing the location of an uncertain or disputed boundary line;

14. the execution or recording of a deed to real property for the purpose of creating or terminating a joint tenancy with rights of survivorship, provided the grantors and grantees are the same; or
15. a transfer of a fractional interest between family members for zero monetary consideration, or a de minimis monetary consideration, whereby both the grantor and the grantee owned an interest in the property prior to the transfer. For purposes of this item, a family member includes a spouse, parent, brother, sister, child, grandparent, or grandchild.

5. **PROPERTY TAX EXEMPTIONS.**

- a. **Homestead Exemption.** Section 12-37-250 provides for an exemption of the first fifty thousand (\$50,000) of property tax value of a “dwelling place” for the following persons:
 - i. A person that has been a resident of South Carolina for at least one year and has reached the age of sixty five years on or before December thirty first;
 - ii. A person that has been classified as totally and permanently disabled by a state or federal agency having the function of classifying persons; or
 - iii. A person that is legally blind as defined in Section 43 25 20, preceding the tax year in which the exemption is claimed and holds complete fee simple title or a life estate to the dwelling place. A person claiming to be totally and permanently disabled, but who has not been classified by one of the agencies, may apply to the state agency of Vocational Rehabilitation. The agency shall make an evaluation of the person using its own standards.

The application for the homestead exemption is made to the County Auditor, not the County Assessor, as is the case for the 4% legal residence status.

- b. **Other Exemptions for Disabled Persons and Certain Veterans.** Section 12-37-220(A) provides a list of types of properties that are generally exempt from taxation and include but are not limited to properties of the State, non-profit schools, libraries, and churches. Section 12-37-220(B), however, permits an exemption from property taxes for certain taxpayers who are “eligible” veterans, law enforcement officers, fire fighters and paraplegic or hemiplegic individuals.
 - i. **Disabled Veteran Exemption.** (B)(1)(A): Dwelling home of a veteran who is permanently and totally disabled as a result of a service connected disability.
 - ii. **Disabled Law Enforcement Exemption.** (B)(1)(B): Dwelling home of a former law enforcement officer, who is permanently and totally disabled as a result of a law enforcement service connected disability in this State
 - iii. **Disabled Firefighter Exemption.** (B)(1)(C): Dwelling home of a former firefighter, including volunteer firefighter, who is permanently and totally

disabled as a result of a firefighting service connected disability in this State

- iv. Paraplegic or Hemiplegic Person Exemption. Section 12-37-220(B)(2)(a) provides an exemption from property taxation for paraplegic or hemiplegic persons if the person furnishes satisfactory proof of such disability to the Department of Revenue. The exemption applies to the “dwelling house” and “a lot not to exceed one acre of land in fee or for life, or jointly with a spouse” which is different than the 4% legal residence standard (legal residence and not more than five acres contiguous thereto). Notably, the statute defines a "paraplegic" or "hemiplegic" person to include those individuals “with Parkinson's Disease, Multiple Sclerosis, or Amyotrophic Lateral Sclerosis, which has caused the same ambulatory difficulties as a person with paraparesis or hemiparesis” and requires a doctor’s certification as to the disease and causal connection to the same ambulatory difficulties.
- v. Medal of Honor or Prisoner of War Exemption. (B)(43) – Dwelling home of Medal of Honor or Prisoner of War Recipient.

6. APPENDIX

- a. Sample Property Tax Bill – 4% Legal Residence Classification
- b. Sample Property Tax Bill – 6% Other Real Property
- c. Charleston County 4% Legal Residence Application
- d. Charleston County Request for Refund – 4% Legal Residence Exemption
- e. S.C. Department of Revenue Property Tax Exemption Application for Individuals
- f. Other Resources:
 - i. South Carolina Property Tax (2015 Edition)
 - ii. South Carolina Taxation and Economic Incentives, Third Edition, by John C. von Lehe, Jr. and Jennifer W. Davis

Office of the County Assessor
843-958-4100



3875 Faber Place Drive, Suite 100
North Charleston, SC 29405-8547

4% LEGAL RESIDENCE EXEMPTION – REQUEST FOR REFUND

(Please attach to front of 4% Legal Residence Exemption application)

S.C. Code Ann. §12-43-220(c)(3) provides that taxpayers may apply for a refund of property taxes overpaid if the property was eligible for the 4% Legal Residence Exemption. Taxpayers must establish that the property in question was in fact their legal residence and where they were domiciled for the time period in question. The refund is limited to two years by **S.C. Code Ann. § 12-54-85(F)**.

Print Owner Name: _____ Date Occupied: _____

Property Location: _____

Mailing Address: _____

As taxpayer for the above-referenced property, I request a refund of taxes for the difference between the property tax bill previously paid at 6% and the amount that would have been billed if the property had been qualified for the 4% Legal Residence Exemption. I understand that the refund cannot exceed two property tax years. I further certify that I have occupied the property listed above as my legal residence/domicile since the date provided. I understand that the burden of proof for eligibility for the refund is on me as taxpayer and I will provide proof to establish that the property in question was in fact my legal residence.

PROVIDE EVERYTHING LISTED BELOW:

(These items must have your current address on them.)

- Copies of SC Driver(s) License(s) OR SC Identification Card(s) showing current address *(for all owner-occupants AND spouse)*.
- Copies of SC Vehicle Registration(s) showing current address *(for all owner-occupants AND spouse)*. If you drive a company car provide registration.
- Copies of first two pages of your Federal 1040(s) (including schedules A, C, E & Form 8829 if applicable) for the years in question. Tax returns must be supplied for all owner-occupants AND spouse (if married). **Redact** income, social security & account/routing numbers - see back of this form for example.
- Copies of first three pages of SC/other State Income Tax Returns for the years in question. Tax returns must be supplied for all owner-occupants AND spouse. **Redact** income, social security & account/routing numbers - see back of this form for example.
- Copies of SC Voter Registration Cards *(for all owner-occupants AND spouse)*.
- Two (2) letters from utility companies ((i) Address Verification Form – SCE&G, (ii) Letter of Responsibility – Water Company) showing when you started receiving service in your name.
- If property is owned by an LLC, provide a copy of the Operating Agreement for the LLC showing members and their respective ownership interests.

REQUIRED: Owner's Information	REQUIRED: Spouse's Information (if applicable)
Original Signature: _____	Original Signature: _____
Print Name Legibly: _____	Print Name Legibly: _____
Social Security Number: _____	Social Security Number: _____
Date: _____ Phone: _____	Date: _____ Phone: _____
Alternate Phone: _____	Alternate Phone: _____

IF YOU HAVE QUESTIONS – CALL THE ASSESSOR'S OFFICE
843-958-4100 (select option #1)
or visit www.charlestoncounty.org for forms, contacts and further information

DO NOT FAX – DO NOT EMAIL

Send To:
Charleston County Assessor's Office
PO Box 427
Charleston, SC 29402

Located At:
101 Meeting Street, Suite 130
Charleston, SC 29401

S.C. Code Ann. §12-43-220(c)(3) Notwithstanding any other provisions of law, a taxpayer may apply for a refund of property taxes overpaid because the property was eligible for the legal residence assessment ratio. The application must be made in accordance with §12-650-2560 (A). The taxpayer must establish that the property in question was in fact his legal residence and where he was domiciled.

S.C. Code Ann. §12-60-2560(A) Subject to the limitations in §12-60-1750, and within the time limitations of §12-54-85(F), "A property taxpayer may seek a refund of real property taxes assessed by the county assessor and paid, other than taxes paid on property the taxpayer claims is exempt, by filing a claim for refund with the county assessor who made the property tax assessment for the property for which the tax refund is sought." The assessor, upon receipt of a claim for refund, shall immediately notify the county treasurer and the county auditor for the county from which the refund is sought. The majority of these three officials shall determine the taxpayer's refund, if any, and shall notify the taxpayer in writing of their decision.

S.C. Code Ann. §12-54-85(F) (1) Except as provided in subsection (D), claims for credit or refund must be filed within three years of the time the return was filed, or two years from the date of the payment, whichever is later. If no return was filed, a claim for refund must be filed within two years from the date of payment.

HOW TO REDACT YOUR TAX RETURNS:

Redact the return as shown (SC and other state returns have similar information to the 1040) using a heavy marker or pen to cover up:

- Social Security Numbers
- Account numbers
- Routing numbers
- Income amounts

If a line is blank – leave it blank.

If a line is filled in with a zero – leave the zero.

If a line contains an N/A – leave the N/A.

The income amounts (dollar figures) are typically not needed for this process but it is necessary during the approval process for the Assessor's Office to know if some lines contained data. Therefore, do not cover up the lines with plain paper and do not fold the form when copying to hide the income lines.

If you have any questions about redacting or about what parts of the returns are needed, call the Assessor's Office at 843-958-4100. Customer service representatives will be happy to assist you and answer your questions you have.

The image shows a 2012 U.S. Individual Income Tax Return (Form 1040) with several sections redacted with black boxes. The redactions include:

- Personal information: Name, social security number, spouse's name and SSN, and address.
- Exemptions: Spouse and dependent information.
- Income: Lines 7 (Wages), 8a (Taxable interest), 9a (Ordinary dividends), 12 (Business income), 13 (Capital gain), 15a (IRA distributions), 16a (Pensions), and 17 (Rental real estate).
- Refund: Lines 73 (Amount overpaid), 74a (Refund amount), and 75 (Amount applied to 2013 tax).
- Amount Owed: Line 76 (Amount owed).
- Third Party Designee: Name, phone number, and PIN.

**IF YOU HAVE QUESTIONS – CALL THE ASSESSOR'S OFFICE
843-958-4100 (select option #1)**



LEGAL RESIDENCE (4%) EXEMPTION APPLICATION

This Application is for the current year only, REFUNDS REQUIRE A DIFFERENT FORM

MAIL Original application OR HAND DELIVER to:

Charleston County Assessor's Office 3875 Faber Place Drive, Suite 100 N. Charleston, SC 29405-8547

DO NOT FAX, DO NOT EMAIL

Table with 2 columns: NAME & MAILING ADDRESS OF OWNER, PROPERTY TYPE. Includes fields for MOBILE HOME, PARCEL USED AS YARD, #ACRES, #LOTS, Ofc. Use: Assoc. PIN.

CALL 843-958-4100 IF YOU HAVE ANY QUESTIONS ABOUT THE REQUIREMENTS - YOU WILL BE NOTIFIED IN WRITING IF YOUR APPLICATION IS DENIED

YOU MUST ANSWER ALL QUESTIONS ON THIS APPLICATION AND PROVIDE ALL REQUIRED INFORMATION

- 1. ADDRESS of owner-occupant's primary legal residence:
2. Date owner-occupant(s) began to occupy the property:
3. Is the property held in a trust?
4. Is the property owned by a single member Limited Liability Corporation (LLC)?
5. Is the property subject to a land/installment contract or bond for title?
6. Is the property rented for any period of time during the year?
7. Is any part of the property (commercial, apartment, lot, mobile home, etc.) rented OR used/claimed for business purposes?
8. Do you operate a B&B (such as Airbnb) out of the property?
9. Please check appropriate box: A) Married B) Widowed C) Legally separated D) Divorced E) Never Married
10. Did you own your previous residence?
11. Do you, your spouse, or any member of your household* own another residence(s) in the United States or in another country?
12. Do you, your spouse or any member of your household* claim to be a resident of any other jurisdiction for any purpose?

MINIMUM REQUIRED DOCUMENTS TO CONSIDER THIS APPLICATION for all owner-occupants AND spouse

- SC DRIVERS LICENSE/SC ID CARD WITH CURRENT ADDRESS
SC VEHICLE REGISTRATION WITH CURRENT ADDRESS
SC VOTER REGISTRATION CARDS WITH CURRENT ADDRESS
DIVORCE DECREE OR LEGAL SEPARATION PAPER (if applicable)
FEDERAL 1040 TAX RETURN W/ SCHED. A, C, E & FORM 8829 (if applicable)
SC INCOME TAX RETURN OR MOST RECENT STATE FILED
PERMANENT RESIDENT CARD OR VISA, I-797 (if applicable)
OTHER DOCUMENTS AS INDICATED ON APPLICATION OR INSTRUCTIONS

If any required proof or information is missing, the application will not be processed. Other proof or information may be required. If so, you will be contacted.

SC Code 12-43-220(c): "The owner or his agent shall provide all information required in the application, and shall certify to the following statement: 'Under penalty of perjury I certify that: (A) the residence which is the subject of this application is my legal residence and where I am domiciled at the time of this application and that neither I, nor any member of my household*, claim to be a legal resident of a jurisdiction other than South Carolina for any purpose; and (B) that neither I, nor a member of my household*, claim the special assessment ratio allowed by this section on another residence.'

*member of my household is defined on the back of this application. Penalty section is also on back.

BY THE SIGNING OF THIS APPLICATION I AGREE THAT I HAVE READ AND UNDERSTAND THE ABOVE STATEMENT AND FOLLOWED THE INSTRUCTIONS ON THE BACK

REQUIRED SIGNATURE - Owner-Occupant's Signature. Fields for Signature, Date, Print Name Legibly, SSN, Phone #.

REQUIRED SIGNATURE: Spouse (spouse MUST sign if applicant is married and not separated-even if spouse is NOT an owner) OR Co-Owner IF occupant of property. Fields for Signature, Date, Print Name Legibly, SSN, Phone#.

For office use only: Approved: Yes No By: PIN#

FILING THIS APPLICATION DOES NOT ALLOW YOU TO DELAY PAYING TAXES THAT HAVE BEEN BILLED

Taxes are DUE BY THE DATE ON THE BILL (Usually January 15th) PENALTIES AND INTEREST CANNOT BE WAIVED IF THE PAYMENT IS LATE.

IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, REQUIRED DOCUMENTS OR QUALIFICATIONS FOR THE LEGAL RESIDENCE EXEMPTION:

CALL THE ASSESSOR'S OFFICE AT 843-958-4100

OTHER COUNTY OFFICES WILL NOT BE ABLE TO PROVIDE YOU WITH ACCURATE ANSWERS

If approved the 4% ratio will be computed into your tax bill and will reflect QR4 as the assessment ratio on your bill. If your application is not approved by the time the bill is due, pay the bill and a refund will be issued if the application is approved and the special assessment ratio granted after the due date.

INSTRUCTIONS

- All questions *must* be answered completely and all required documents/proof *must* be supplied.
- Provide a written explanation if information/documents are not available
- If married, your spouse must sign and provide all required documentation even if he or she has no ownership of the property and/or does not occupy the property
- Do not email or fax the completed application, original signatures are required. Mail or hand deliver the application to the address on the application form.

MINIMUM REQUIRED DOCUMENTATION

Send legible copies of required documents and proof – do not send us YOUR original documents

*****IF QUESTIONS ARISE AS A RESULT OF INFORMATION PROVIDED ON THIS FORM, YOU MAY BE CONTACTED FOR ADDITIONAL DOCUMENTATION OR CLARIFICATION*****

- SC Driver's License/Identification card for all owner occupants AND spouse
- SC motor vehicle registration showing current address for all owner occupants AND spouse (For company cars – provide registration showing business address)
- Copy of SC Voter Registration card for all owner occupants AND spouse
- Federal Tax returns: Redacted copy of first two pages of most recently filed (1040) and Schedule A Schedule C Schedule E Form 8829 (if applicable)
Returns for both owner-occupant AND spouse must be supplied
If you have filed an extension, provide most recently filed complete federal/state return AND a copy of your filed extension.
If you have any questions about how we protect your information call the Charleston County Assessor's office at (843) 958-4100.
- SC income tax return or other state income tax return (if not yet filing in SC). For SC income tax returns supply first 3 pages only and Schedule NR (if applicable)
- Court ordered separate support & maintenance agreement or divorce decree, if separated or divorced
- For active duty MILITARY ONLY- provide the following: Military ID current orders current Leave and Earnings Statement (LES) - redact income information. Military members AND their spouses must provide driver's license(s), vehicle registration(s) and voter registration(s) regardless of where licensed or registered.
- Provide copy of permanent residence card, visa or I-797 if Owner or Spouse is a citizen of another country.
- Additional documentation if applicable. trusts bond for title/land contract ; operating agreement or Form 8832 for single member LLC's

If you do not have the required documentation or proof but still feel you qualify, call the Assessor's office and we will discuss your situation with you.

HOW TO REDACT YOUR TAX RETURNS

Redact the return as shown (SC and other state returns have similar information to the 1040) using a heavy marker or pen to cover up:

- Social Security Numbers Account numbers Routing numbers Income amounts

If a line is blank – leave it blank.

If a line is filled in with a zero – leave the zero.

If a line contains an N/A – leave the N/A.

The income amounts (dollar figures) are typically not needed for this process but it is necessary during the approval process for the Assessor's Office to know if some lines contained data. Therefore, do not cover up the lines with plain paper and do not fold the form when copying to hide the income lines.

If you have any questions about redacting or about what parts of the returns are needed or why they are needed, call the Assessor's Office at 843-958-4100.

The image shows the top portion of a 2016 Form 1040. It includes the title 'Form 1040 U.S. Individual Income Tax Return 2016', the Department of the Treasury logo, and the IRS logo. The form is for the year 2016, ending in 2016. It has fields for 'Your first name and initial', 'Last name', 'Your social security number', 'If a joint return, spouse's first name and initial', 'Last name', 'Spouse's social security number', 'Home address (number and street)', 'Apt. no.', and 'City, town or post office, state, and ZIP code'. There is a note to 'Make sure the SSN(s) above and on line 6c are correct.' and a 'Presidential Election Campaign' box.

Following are important EXCERPTS from the legal residence exemption statute SECTION 12-43-220. (c)

A full copy of the statute is attached to this form, available online at: www.charlestoncounty.org or available by calling the Assessor's Office at 843-958-4100

"a member of my household" means:

- the owner-occupant's spouse, except when that spouse is legally separated from the owner-occupant; and
- any child under the age of eighteen years of the owner-occupant claimed or eligible to be claimed as a dependent on the owner-occupant's federal income tax return.

If the assessor determines the owner-occupant ineligible, the six percent property tax assessment ratio applies and the owner-occupant may appeal the classification as provided in Chapter 60 of this title.

- If a change in ownership or use occurs, the owner who had qualified for the special assessment ratio allowed by this section shall notify the assessor of the change in classification within six months of the change
- Another application is required by the new owner to qualify the residence for future years for the four percent assessment ration allowed by this section.
- If a person signs the certification, obtains the four percent assessment ratio, and is thereafter found not eligible, or thereafter loses eligibility and fails to notify the assessor within six months, a penalty is imposed equal to one hundred percent of the tax paid, plus interest on that amount at the rate of one-half of one percent a month...

If we can assist you in any way, contact the Assessor's office at (843) 958-4100

OR

Visit www.charlestoncounty.org

INSTRUCTIONS FOR LEGAL RESIDENCE APPLICATION
FOR ANY QUESTIONS CALL THE CHARLESTON COUNTY ASSESSOR'S OFFICE AT
843-958-4100

Other offices will not be able to answer your questions accurately– Call the Assessor's office

GENERAL INFORMATION

- All questions *must* be answered completely and all required documents/proof *must* be supplied
 - Incomplete applications or those missing documents/proof will not be processed
- Provide a written explanation if information/documents are not available
 - We will perform further research and verification and contact you if necessary
- If married, your spouse must sign and provide all required documentation even if he or she has no ownership of the property and/or does not occupy the property
- Do not email or fax the completed application, original signatures are required. Mail or hand deliver the application to the address on the application form.

MINIMUM REQUIRED DOCUMENTATION

Send legible copies of required documents and proof – do not send us YOUR original documents

- SC Driver's License/Identification card for all owner occupants AND spouse
- SC motor vehicle registration showing current address for all owner occupants AND spouse
 - For company cars – provide registration showing business address
- Copy of SC Voter Registration card for all owner occupants AND spouse
- Tax returns: Redacted copy of first two pages of most recently filed **Federal income tax return** (1040 and Schedules A, C, E & Form 8829 if applicable) AND redacted copy most recently filed **SC income tax return** or **other state income tax return** (if not yet filing in SC). For SC income tax returns supply first 3 pages only
 - See example on reverse for how and what to redact on your tax returns
 - Returns for both owner-occupant AND spouse must be supplied
 - If you have filed an extension, provide most recently filed complete federal/state return AND a copy of your filed extension. Your complete returns may be requested later
 - If you have any questions about how we protect your information call the Charleston County Assessor's office at (843) 958-4100.
- If separated or divorced: provide court ordered separate support & maintenance agreement or divorce decree.
- For active duty MILITARY ONLY- provide the following: Military Identification, copy of current orders, copy of current Leave and Earnings Statement (LES). Redact income information from LES.
 - Military members AND their spouses must provide driver's license(s), vehicle registration(s) and voter registration(s) regardless of where licensed or registered.
- If owner or spouse is a citizen of another country, provide copy of permanent residence card.
- Additional documentation must be provided where applicable.
 - i.e. copies of: trusts, bond for title, operating agreement for single member LLC's, etc.
- If you do not have the required documentation or proof but still feel you qualify, call the Assessor's office and we will be happy to discuss your situation with you.

If we can assist you in any way, please contact the Assessor's office at (843) 958-4100

OR

Visit www.charlestoncounty.org,

HOW TO REDACT YOUR TAX RETURNS:

Redact the return as shown (SC and other state returns have similar information to the 1040) using a heavy marker or pen to cover up:

- Social Security Numbers
- Account numbers
- Routing numbers and
- Income amounts

If a line is blank – leave it blank.

If a line is filled in with a zero – leave the zero.

If a line contains an N/A – leave the N/A.

The income amounts (dollar figures) are typically not needed for this process but it *is* necessary during the approval process for the Assessor’s Office to know if some lines contained data. Therefore, do not cover up the lines with plain paper and do not fold the form when copying to hide the income lines.

If you have any questions about redacting or about what parts of the returns are needed, call the Assessor’s Office at 843-958-4100. Customer service representatives will be happy to assist you and answer your questions.

Form 1040 Department of the Treasury—Internal Revenue Service (999) **2012** U.S. Individual Income Tax Return OMB No. 1545-0074 IRS Use Only—Do not write or staple in this space.

For the year Jan. 1–Dec. 31, 2012, or other tax year beginning _____, 2012, ending _____, 20

Your first name and initial _____ Last name _____
Tax Payer
 If a joint return, spouse's first name and initial _____ Last name _____
 Home address (number and street). If you have a P.O. box, see instructions. _____ Apt. no. _____
101 Meeting Street

Exemptions

b Spouse

(1) First name	Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) <input checked="" type="checkbox"/> if child under age 17 qualifying for child tax credit (see instructions)
Tax Dependent			daughter	<input type="checkbox"/>

Income

7	Wages, salaries, tips, etc. Attach Form(s) W-2	7	
8a	Taxable interest. Attach Schedule B if required	8a	
b	Tax-exempt interest. Do not include on line 8a	8b	
9a	Ordinary dividends. Attach Schedule B if required	9a	n/a
b	Qualified dividends	9b	
10	Taxable refunds, credits, or offsets of state and local income taxes	10	
11	Alimony received	11	n/a
12	Business income or (loss). Attach Schedule C or C-EZ	12	
13	Capital gain or (loss). Attach Schedule D if required. If not required, check here <input type="checkbox"/>	13	0
14	Other gains or (losses). Attach Form 4797	14	
15a	IRA distributions	15a	
b	Taxable amount	15b	
16a	Pensions and annuities	16a	
b	Taxable amount	16b	
17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17	

Refund

73 If line 72 is more than line 61, subtract line 61 from line 72. This is the amount you overpaid

74a Amount of line 73 you want refunded to you. If Form 8888 is attached, check here

Direct deposit? See instructions.

b Routing number _____ c Type: Checking Savings

d Account number _____

75 Amount of line 73 you want applied to your 2013 estimated tax

Amount You Owe

76 Amount you owe. Subtract line 72 from line 61. For details on how to pay, see instructions

77 Estimated tax penalty (see instructions)

Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see instructions)? Yes. Complete below. No

Designee's name _____ Phone no. _____ Personal identification number (PIN) _____

If we can assist you in any way, please contact the Charleston County Assessor’s office at (843) 958-4100



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
**PROPERTY TAX EXEMPTION
APPLICATION FOR INDIVIDUALS**

Mail to: South Carolina Department of Revenue, Government Services Division, PO Box 125, Columbia, SC 29214-0303

Year(s) Exemption Requested: _____

SSN: _____
Owner and Mailing Address

SID #: _____
Office Use Only

Telephone Number: _____

Exemption Section Requested (see instructions): _____

COMPLETE ONLY THE APPLICABLE SECTION(S).

Section 1 – Real Property

Separate applications must be filed for each parcel of real property. Please see instructions for documentation needed.

1. Date Real Property Acquired: _____

2. County Where Property is Located: _____

3. Physical Address of Property: _____
Street City State Zip Tax District

4. Are you applying for exemption on (check all that apply):

- Land and Building Building
- Land Mobile Home

5. Fill out the applicable information:

- Tax Map Number: _____ • Mobile Home Tax Map Number: _____
- Number of Acres: _____ • Deed Book: _____
- Mobile Home Permit Number: _____ • Page Number: _____

Section 2 – Personal Property

To apply for vehicle exemption, please complete the chart below. Please see instructions for documentation needed.

VEHICLE IDENTIFICATION NUMBER	TYPE	MAKE	YEAR	REGISTERED OWNER	COUNTY OF REGISTRATION

Section 3 – Real Property Exemption Questions

Please answer all questions completely and sign the statement below.

Did you file an individual income tax return with the South Carolina Department of Revenue?

Yes No

If so, what name is on the return? _____

Explain the use of the property, land and buildings: _____

Do any other individuals, associations or corporations occupy or use any part of the claimed exemption that is listed on this application?

Yes No

If so, explain circumstances: _____

Is any rent received for this property or any portion of this property?

Yes No

If yes, from whom? _____

Do you lease or rent any property for which you are requesting an exemption?

Yes No

If yes, from whom? _____

Section 4 – Declaration of Owner or Owner’s Agent

Subject to penalty for perjury, I declare that I have examined this application, including enclosures and attachments (if any), and to the best of my knowledge and belief it is true, correct, and complete.

Signature _____

Date _____

Application for Exemption Instructions for Individuals

Individuals who are requesting a property tax exemption must complete Form PT-401-I (Application for Exemption).

Personal Property (Vehicle) Exemptions for Individuals

EXEMPTION SECTIONS:

Required documentation is listed for each exemption.

B(3) - Vehicle(s) exemption for Disabled Veterans

Two private passenger vehicles owned or leased by veteran who is totally and permanently disabled from a service connected disability. Effective for tax year 2015, this exemption is allowed to surviving spouse for one vehicle owned or leased for their lifetime or until their remarriage. *Provide copies of the following: Certificate from Veterans Administration or Local County Service Officer certifying total and permanent service connected disability with the effective date, copy of vehicle(s) registration card, bill of sale or title. (VA Rating decision and e Benefits letters do not meet requirements of law).*

B(26) - Vehicle(s) exemption for Medal of Honor recipients

Two private passenger vehicles owned or leased by recipients of the Medal of Honor. *Provide copies of the following: Vehicle(s) registration card, bill of sale or title, certificate from Veterans Administration or Local County Service Officer certifying receipt of Medal of Honor.*

B(27) - Vehicle(s) exemption for persons required to use wheelchairs

Two personal motor vehicles, owned or leased either solely or jointly by persons required to use wheelchairs. *Provide copies of the following: Vehicle(s) registration card, bill of sale or title and a signed physician's statement on physician's letterhead certifying the required use of wheelchair on a permanent basis with effective date of wheelchair use.*

B(29) - Vehicle(s) exemption for Prisoner of War

Two private passenger vehicles or trucks, not exceeding three-quarter ton, owned or leased by prisoner of war (POW) in World War I, World War II, the Korean Conflict, or the Vietnam Conflict. This exemption is allowed to surviving spouses of a former POW for their lifetime or remarriage. *Provide copies of the following: Vehicle(s) registration card, bill of sale or title, certificate from Veterans Administration or Local County Service Officer certifying you were a Prisoner of War.*

B(37) - Vehicle(s) exemption for parent or legal guardian of a minor child who is blind or requires the use of a wheelchair

One personal motor vehicle owned or leased by a parent or legal guardian of a minor who is blind or requires the use of a wheelchair when the vehicle is used to transport the minor. *Provide copies of the following: Vehicle(s) registration card, bill of sale or title, physician's statement certifying the minor child is blind or required to use a wheelchair with effective date and copy of original birth certificate showing parents name or court documentation of legal guardianship.*

Real Property (Land and Home) Exemptions for Individuals

B(1)(A) - Dwelling home of a veteran who is permanently and totally disabled as a result of a service connected disability

The house owned by an eligible owner (veteran) in fee or for life, or jointly with a spouse. This exemption is allowed to the surviving spouse who owned the house in fee or for life or jointly with the now deceased spouse, if the spouse remains unmarried, resides in the house, and owned the house in fee or for life. *Provide copies of the following: Certificate from Veterans Administration or Local County Service Officer certifying total and permanent service connected disability with the effective date, copy of recorded deed and 4% legal residence form. (VA Rating decision and e Benefits letters do not meet requirements of law.)*

B(1)(B) - Dwelling home of a former law enforcement officer, who is permanently and totally disabled as a result of a law enforcement service connected disability in this State

The house owned by an eligible owner (law enforcement officer) in fee or for life, or jointly with a spouse. This exemption is allowed to the surviving spouse who owned the house in fee or for life or jointly with the now deceased spouse, if the spouse remains unmarried, resides in the house, and owns the house in fee or for life. *Provide copies of the following: Copy of final order issued by Workers' Compensation Commission of total and permanent service connected disability in this State with the effective date, copy of recorded deed and 4% legal residence form.*

B(1)(C) - Dwelling home of a former firefighter, including volunteer firefighter who is permanently and totally disabled as a result of a firefighting service connected disability in this State

The house owned by an eligible owner (firefighter/volunteer firefighter) in fee or for life, or jointly with a spouse. This exemption is allowed to the surviving spouse who at the time of death owned the house in fee or for life, or jointly with the now deceased spouse, if the spouse remains unmarried, who resides in the house, and who owned the house in fee or for life. *Provide copies of the following: Copy of statement from the chief of the fire department and physician of the total and permanent service connected disability in this State with the effective date, copy of recorded deed and 4% legal residence form.*

For the above B(1)(A), B(1)(B) and B(1)(C) Property held in a Trust

When a trustee holds legal title to a dwelling for a beneficiary and the beneficiary qualifies for the exemption and uses the dwelling as the beneficiary's domicile, the dwelling is exempt from property taxation. *Provide copies of the same documentation listed above for B(1)(A), B(1)(B) and B(1)(C) along with a copy of the complete signed trust agreement.*

B(2)(a) - Dwelling home of a paraplegic or hemiplegic person

The dwelling house in which he resides and a lot not to exceed one acre of land owned in fee or for life, or jointly with a spouse. *Provide copies of the following: Physician's statement certifying paraplegic, hemiplegic or quadriplegic condition with effective date, copy of recorded deed and 4% legal residence form.*

For the above B(2)(a) Property held in a Trust

When a trustee holds legal title to a dwelling for a beneficiary and the beneficiary is a person who qualifies otherwise for the exemption and the beneficiary uses the dwelling as the beneficiary's domicile, the dwelling is exempt from property taxation. *Provide copies of the same documentation listed above for B(2)(a) along with a copy of the complete signed trust agreement.*

B(43) - Dwelling home of a Medal of Honor or Prisoner of War recipient

The dwelling home and lot not to exceed one acre of land owned in fee or for life or jointly with a spouse by a resident of this State who is a recipient of the Medal of Honor or who was a prisoner of war in World War I, World War II, the Korean Conflict, or the Vietnam Conflict are exempt from property tax. This exemption is allowed to the surviving spouse who owned the house in fee or for life or jointly with the now deceased spouse, if the spouse remains unmarried, resides in the house, and owns the house in fee or for life. *Provide copies of the following: Certificate from Veterans Administration or Local County Service Officer certifying you are a recipient of Medal of Honor, regardless of the conflict or who was a prisoner of war in World War I, World War II, Korean Conflict or Vietnam Conflict.*

1446

THIS TAX BILL DOES NOT REFLECT ANY TAXES YOU MIGHT OWE FOR PREVIOUS YEARS
COMBINED TAXES FOR: CHARLESTON COUNTY-WIDE ENTITIES AND 3-4 CITY OF CHARLESTON
REAL PROPERTY TAXES FOR PERIOD COMMENCING: 01-01-2017

PROPERTY DESCRIPTION				ASSESSMENT RATIO	APPRAISAL	ASSESSMENT	MILLAGE	TOTAL TAX	
DIST	TYPE	ACRES	MORTGAGE CODE/ID	QR4	500,000	20,000	288.6	5,772.00	
3-4	REAL	0.62	001						
								COUNTY SALES TAX CREDIT	-455.00
								MUNICIPAL SALES TAX CREDIT	-425.00
								STATE PROPERTY TAX RELIEF BENE	-2384.00
								RESIDENTIAL USER FEE	99.00
								PAY THIS AMOUNT ON OR BEFORE 01-16-2018	\$2,607.00

BILL NO. #

PIN :

SUBDIVISION NAME :

1400 L

61821 1 AV 0.370



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R



YOU CAN PAY YOUR TAXES ONLINE AT www.charlestoncounty.org

IMPORTANT INFORMATION ON BACK OF THIS BILL

GOVERNMENT AGENCIES RESPONSIBLE FOR MILLAGE & TAX DOLLARS

MILLS	TAXES	AGENCY CODE	%
44.7	439.00	COUNTY GOVERNMENT OPERATING	
6.1	122.00	COUNTY GOVERNMENT BONDS (958-4640)	22.4%
119.2	0.00	SCHOOL BOARD OPERATING	
26.0	520.00	SCHOOL BOARD BONDS (566-1829)	20.7%
4.3	86.00	PARKS & RECREATION OPERATING	
1.8	36.00	PARKS & RECREATION BONDS (762-2172)	4.9%
1.9	38.00	TRIDENT TECHNICAL COLLEGE OPERATING	
1.0	20.00	TRIDENT TECHNICAL COLLEGE BONDS (574-6111)	2.3%
78.1	1,137.00	CITY OF CHARLESTON	
4.0	80.00	CITY OF CHARLESTON DRAINAGE IMP (579-7529)	
1.5	30.00	CITY OF CHARLESTON PUBLIC SAFETY INFRASTRUCTURE	49.7%
288.6	2,508.00	TOTAL TAXES	100.0%
	99.00	RESIDENTIAL USER FEE	
	\$2,607.00	PAY THIS AMOUNT	

THIS TAX BILL DOES NOT REFLECT ANY TAXES YOU MIGHT OWE FOR PREVIOUS YEARS
COMBINED TAXES FOR: CHARLESTON COUNTY-WIDE ENTITIES AND 3-4 CITY OF CHARLESTON
REAL PROPERTY TAXES FOR PERIOD COMMENCING: 01-01-2017

PROPERTY DESCRIPTION				ASSESSMENT RATIO	APPRAISAL	ASSESSMENT	MILLAGE	TOTAL TAX	
DIST	TYPE	ACRES	MORTGAGE CODE/ID	OT6	500,000	30,000	288.6	8,658.00	
3-4	REAL	0.62	001						
								COUNTY SALES TAX CREDIT	-455.00
								MUNICIPAL SALES TAX CREDIT	-425.00
								STATE PROPERTY TAX RELIEF BENE	0.00
								RESIDENTIAL USER FEE	99.00
								PAY THIS AMOUNT ON OR BEFORE 01-16-2018	\$7,877.00

BILL NO. #

PIN :

SUBDIVISION NAME

1400 L

61821 1 AV 0.370



101
R



YOU CAN PAY YOUR TAXES ONLINE AT www.charlestoncounty.org

IMPORTANT INFORMATION ON BACK OF THIS BILL

GOVERNMENT AGENCIES RESPONSIBLE FOR MILLAGE & TAX DOLLARS

MILLS	TAXES	AGENCY CODE	%
44.7	886.00	COUNTY GOVERNMENT OPERATING	
6.1	183.00	COUNTY GOVERNMENT BONDS (958-4640)	22.4%
119.2	3,576.00	SCHOOL BOARD OPERATING	
26.0	780.00	SCHOOL BOARD BONDS (566-1829)	20.7%
4.3	129.00	PARKS & RECREATION OPERATING	
1.8	54.00	PARKS & RECREATION BONDS (762-2172)	4.9%
1.9	57.00	TRIDENT TECHNICAL COLLEGE OPERATING	
1.0	30.00	TRIDENT TECHNICAL COLLEGE BONDS (574-6111)	2.3%
78.1	1,918.00	CITY OF CHARLESTON	
4.0	120.00	CITY OF CHARLESTON DRAINAGE IMP (579-7529)	
1.5	45.00	CITY OF CHARLESTON PUBLIC SAFETY INFRASTRUCTURE	49.7%
288.6	7,778.00	TOTAL TAXES	100.0%
	99.00	RESIDENTIAL USER FEE	
	\$7,877.00	PAY THIS AMOUNT	



South Carolina Bar

Continuing Legal Education Division

2018 SC BAR CONVENTION

Tax Law Section

Saturday, January 20

Federal Tax Update

Prof. Tessa R. Davis



UNIVERSITY OF
SOUTH CAROLINA

2017 Tax Reform Update

South Carolina Bar Convention
Professor Tessa Davis
SC Law

The Basics:

- H.R. 1 “An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018”
 - Tax Cuts and Jobs Act (TCJA)
- Most significant change in 30 years
- Estimated increase to the deficit: \$1.4 trillion over a 10 year period
- Wide ranging impacts throughout the Code



Individual Changes

Rate schedule:

Example: Married Filing Jointly

Pre-Reform Law	2017 Reform Act
<p><u>Individual Income Tax Rates</u> For tax year 2017, there are seven regular Individual Income tax brackets of 10%, 15%, 25%, 28%, 33%, 35%, and 39.6%, and five categories of filing status. The income levels for each bracket threshold are indexed annually based on increases in the Consumer Price Index (CPI).</p>	<p><u>Individual Income Tax Rates</u> The Act has seven tax brackets: 10%, 12%, 22%, 24%, 32%, 35%, and 37%. These brackets apply to tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026</p>
<p><u>Married Filing Jointly and Surviving Spouses:</u> 10% (Taxable Income not over \$18,650) 15% (Over \$18,650 but not over \$75,900) 25% (Over \$75,900 but not over \$153,100) 28% (Over \$153,100 but not over \$233,350) 33% (Over \$233,350 but not over \$416,700) 35% (Over \$416,700 but not over 470,700) 39.6% (over \$470,700)</p>	<p><u>Married Filing Jointly and Surviving Spouses:</u> 10% (Taxable Income not over \$19,050) 12% (Over \$19,050 but not over \$77,400) 22% (Over \$77,400 but not over \$165,000) 24% (Over \$165,000 but not over \$315,000) 32% (Over \$315,000 but not over \$400,000) 35% (Over \$400,000 but not over 600,000) 37% (over \$600,000)</p>



- §151 Personal exemption suspended*
 - PEP suspended
- §63 Standard deduction increased*
 - \$6,350 S / \$9,350 HoH / \$12,700 MFJ
 - → \$12,000 S / \$18,000 HoH / \$24,000 MFJ
- Indexing for inflation with chained CPI-U
(slower)



- Increased exemption amounts for AMT
- Suspended all miscellaneous itemized deductions*
- Suspends Pease limitation*



Individual-Home Ownership

- Home Mortgage Interest Deduction*
 - Amount reduced to \$750,000 (from \$1M)
 - Home equity indebtedness suspended
- State & Local Tax Deduction*
 - Capped at \$10,000



- Charitable Contribution*
 - AGI limitation increased to 60%
- Casualty Losses*
 - Limited to federally-declared disasters
- Medical Expense Deduction*
 - 2018: 7.5% AGI floor
- §1031 Limited to real property not held primarily for sale



- Alimony Deduction
 - Significant change for family law practice
 - Old law: §71 / §215 Deduction/Inclusion regime
 - Now: All agreements post-2018 under a no deduction/no inclusion regime
 - Alimony, child support, and property settlements receive unified treatment



- Result: opportunity to find money in rate differential removed
 - Example: \$10k alimony paid
 - Payor 50% bracket: \$5k cost after-tax
 - Recipient 25% bracket: \$7.5k after-tax
 - \$2.5k subsidy



Child Tax Credit*

- Now \$2,000
- AGI Phaseout thresholds increased
 - 400k for MFJ and 200k S (110k/75k)
- Refundable up to \$1,400/child
- Earned income amount reduced to \$2,500
- 529 Accounts
 - Lower school now qualifies subject to 10k limit/student/year



Estate Tax Survived?

- Exclusion amount \$10M*
 - Still indexed for inflation



Pass-through Entities

- Significant changes
- Planning strategies likely to shift
- Key element: deduction for qualified domestic business income (subject to sunset)



- “Qualified business income” deduction*
 - §199A for pships, S-corps, and SPs
 - (and qualified REIT DIVs and PTP income)
 - Provides a deduction for 20% QBI
 - Deduction taken after computing AGI
 - “Between the line”
 - Available whether SD or itemizer



- QBI—essentially everything but investment income
 - Qualified REIT DIVs ok
- Deduction is limited by the greater of either wages paid or a mix of wages and 2.5% cost basis of qualified property
- Services business restrictions
 - But not architects and engineers
 - Nor for TPs with TI < \$157.5k (\$315k MFJ)



Corporate and Misc Business

- Corporate AMT repealed
- Changes current rate structure to a flat 21% rate
- Reduces DRD
 - 80% to 65%
 - 70% to 50%
- Limits §163(j) business interest deduction



- Accounting method
 - Now: if $<$ Avg \$25M gross receipts for three years
→ cash method available
- Bonus depreciation* (§168(k))
 - Temporary 100% deduction (full expensing)
available through 2022 (then phased out)
 - Rate reduction varies with type of property and timing of placement in service
- Expands §179 (TPP)



- Repeals §199 deduction for qualified domestic production
- §168 Changes to real and rental property recovery periods
 - Multiple changes BUT poorly drafted
- NOLs limited to 80% of taxable income
 - Eliminates carryback for most businesses
 - Indefinite carryforward



- §274 Employer deductions
 - Entertainment expenses now disallowed
 - Qualified transportation fringe expenses disallowed
- New §45S Credit for paid leave
 - Minimum 2 weeks leave provided; AND
 - 50% wages paid
 - FMLA qualified employees



International Tax

- Shift toward a territorial system
 - 100% Foreign-source DIV deduction
 - > 10% ownership requirement
- Deemed repatriation tax
 - 15.5% rate on cash and cash equivalents
 - 8% rate on illiquid assets
 - Can elect to pay over an 8 year period



- GILTI Tax (“Global intangible low-tax income”)
 - Base is CFC income less set RoR on tangible property
- BEAT (“Base Erosion Anti-Abuse Tax”)
 - Minimum tax on payment (e.g. royalties) to foreign affiliates BUT excludes cost of goods sold
- Requires allocating interest according to adj. basis, rather than FMV of assets



Additional notes

- Repeals ACA individual mandate
- Capital gains rates remain the same
- 3.8% NIIT remains
- New brackets eliminate marriage penalty up to 33% bracket



Impacts and Concerns

- Corporations as tax shelters
 - Importance of individual/corporate rate difference
 - Pressure on judicial anti-abuse doctrines, disguised DIV, PHC and accumulated earnings taxes
 - Incentivizes investing through corporations
 - Shift labor income into corporate profits
 - Recall §1014 remains intact



- Pass-through rate reduction
 - Weak anti-abuse provisions
 - Favored and disfavored industries
 - Violates pass-through norms
 - Pressure to avoid employee status
 - Pressure to either separate aspects of disfavored businesses or dilute service/reputational aspect



- State and local government responses
 - Significant impact to budgets
 - Options:
 - Shift to employee payroll taxes
 - Charitable gifts to state and local governments



- GILTI may incentivize shifting tangible assets overseas
- WTO concerns
- Uncertainty of sunseting tax laws (2025)
- Equity concerns





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