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REPORT OF THE SALES, USE AND INCOME TAX SUBCOMMITTEE

(Newton, Stavrinakis, Dillard, Taylor & Hyde - Staff Contact: Teesha Trapp)

SENATE BILL 577

S. 577 -- Sen. Alexander: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-8-530, SECTION 12-8-540, SECTION 12-8-570, SECTION 12-8-580, AND SECTION 12-8-595, ALL RELATING TO THE WITHHOLDING OF INCOME TAXES, SO AS TO UPDATE A REFERENCE TO THE TOP MARGINAL INCOME TAX RATE.

Received by Ways and Means: 2/1/24

Summary of Bill:

This bill revises several sections of the South Carolina code referencing the tax rate for specified income tax withholdings. The proposed changes reflect the reduction in the top marginal individual income tax rate as enacted in Act 228 of 2022 by changing the words "seven percent" to "a percentage equal to the maximum individual tax rate."

Estimated Revenue Impact:

None

Subcommittee Action/Explanation

Received **FAVORABLE REPORT W/ AMENDMENT** on April 17, 2024

Full Committee Action/Explanation

Other Notes/Comments:

SOUTH CAROLINA
HOUSE AMENDMENT

AMENDMENT NO. _____

David Good
March 25, 2024

ADOPTED	REJECTED	TABLED	ADJOURN DEBATE	RECONSIDERED	ROO

Clerk of the House

ADOPTION NO. _____

BILL NO: S. 577

(Reference is to the original version)

The Sales, Use, and Income Tax Subcommittee proposes the following amendment (LC-577.DG0001H):

Amend the bill, as and if amended, by adding an appropriately numbered SECTION to read:

SECTION X. Section 12-2-140 (A) and (B) of the S.C. Code is amended to read:

(A) Each state agency and each political subdivision of the State, is authorized, as necessary to comply with Internal Revenue Service Publication 1075, including amendments thereto and publications replacing Publication 1075, to obtain state and national criminal history background checks and investigations performed by the State Law Enforcement Division and the Federal Bureau of Investigation on all applicants, prospective employees, employees, subcontractors, and contractors with access to federal tax information. The State Law Enforcement Division is

authorized to conduct fingerprint-based state and national background checks for state agencies, state institutions, and political subdivisions of the State which have access to federal tax information in order to comply with Publication 1075.

(B) An applicant, prospective employee, employee, subcontractor, or contractor of a state agency or a political subdivision of the State with access to or that uses federal tax information must:

(1) agree to a national background check and the release of all investigative records to the applicable state agency or political subdivision for the purpose of verifying criminal history information for noncriminal justice purposes; and

(2) supply a fingerprint sample and submit to a state criminal history background check and investigation to be conducted by the State Law Enforcement Division, and then submit to a national criminal history background check to be conducted by the Federal Bureau of Investigation.

Renumber sections to conform.

Amend title to conform.



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
(803)734-3780 • RFA.SC.GOV/IMPACTS

This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number: S. 0577 Introduced on February 28, 2023
Author: Alexander
Subject: Income Tax Withholding
Requestor: Senate Finance
RFA Analyst(s): Jolliff
Impact Date: April 17, 2023

Fiscal Impact Summary

This bill updates numerous code sections regarding withholding of income taxes for distribution of prizes, out-of-state gains, and other transactions to reflect the reduction in the top marginal individual income tax rate as enacted in Act 228 of 2022.

The bill will not impact expenditures for the Department of Revenue (DOR) to administer these changes.

The bill will not impact state revenues as the changes conform the code sections to the new top marginal individual income tax rate and state tax liability.

Explanation of Fiscal Impact

Introduced on February 28, 2023

State Expenditure

This bill updates numerous code sections regarding withholding of income taxes to reflect the reduction in the top marginal individual income tax rate as enacted in Act 228 of 2022. These changes conform withholdings to the current income tax rates for individuals. The bill will not impact expenditures for DOR to administer these changes.

State Revenue

This bill updates numerous code sections regarding withholding of income taxes for distribution of prizes, out-of-state gains, and other transactions to reflect the reduction in the top marginal individual income tax rate as enacted in Act 228 of 2022. The act lowered the top marginal tax rate from 7 percent to 6.5 percent in tax year 2022. The rate will be lowered to 6 percent over time if revenue growth is sufficient to trigger each 0.1 percent reduction in the rate. The bill updates the tax rate referenced in these code sections from 7 percent to the top marginal tax rate to conform to the change in the tax rate for individuals and will not impact state revenues.

Local Expenditure and Local Revenue

N/A

Frank A. Rainwater, Executive Director

South Carolina General Assembly
125th Session, 2023-2024

S. 577

STATUS INFORMATION

General Bill

Sponsors: Senator Alexander

Companion/Similar bill(s): 4046

Document Path: LC-0175DG23.docx

Introduced in the Senate on February 28, 2023

Introduced in the House on February 1, 2024

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

Summary: Income tax withholding

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
2/28/2023	Senate	Introduced and read first time (Senate Journal-page 5)
2/28/2023	Senate	Referred to Committee on Finance (Senate Journal-page 5)
1/24/2024	Senate	Committee report: Favorable Finance (Senate Journal-page 160)
1/30/2024	Senate	Read second time (Senate Journal-page 12)
1/30/2024	Senate	Roll call Ayes-45 Nays-0 (Senate Journal-page 12)
1/31/2024	Senate	Read third time and sent to House (Senate Journal-page 12)
2/1/2024	House	Introduced and read first time (House Journal-page 14)
2/1/2024	House	Referred to Committee on Ways and Means (House Journal-page 14)

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VERSIONS OF THIS BILL

02/28/2023

02/28/2023-A

01/24/2024

- 1 ~~Indicates Matter Stricken~~
- 2 Indicates New Matter
- 3
- 4 COMMITTEE REPORT
- 5 January 24, 2024
- 6

Introduced by Senator Alexander

S. Printed 01/24/24--S.
Read the first time February 28, 2023

THE COMMITTEE ON SENATE FINANCE

To whom was referred a Bill (S. 577) to amend the South Carolina Code of Laws by amending Section 12-8-530, Section 12-8-540, Section 12-8-570, Section 12-8-580, and Section 12-8-595, all relating to, etc., respectfully

REPORT:

That they have duly and carefully considered the same, and recommend that the same do pass:

HARVEY PEELER for Committee.

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A BILL

11 TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-8-530,
12 SECTION 12-8-540, SECTION 12-8-570, SECTION 12-8-580, AND SECTION 12-8-595, ALL
13 RELATING TO THE WITHHOLDING OF INCOME TAXES, SO AS TO UPDATE A REFERENCE
14 TO THE TOP MARGINAL INCOME TAX RATE.
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16 Be it enacted by the General Assembly of the State of South Carolina:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) failed to provide a taxpayer identification number or social security number;
- (2) failed to provide a correct taxpayer identification number or social security number; or
- (3) provided an Internal Revenue Service issued taxpayer identification number issued for nonresident aliens.

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

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