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HOUSE AMENDMENTS AMENDED

May 29, 2014

**S. 437**

Introduced by Senators Cleary, Reese, Rankin, Campsen, Hembree, Davis, McGill, Thurmond, Campbell, Cromer and Ford

S. Printed 5/29/14--S. [SEC 5/30/14 2:46 PM]

Read the first time February 27, 2013.

**A** **BILL**

TO AMEND SECTION 12‑43‑220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO VALUATION AND CLASSIFICATION OF PROPERTY FOR PURPOSES OF THE PROPERTY TAX, SO AS TO PROVIDE THAT THE OWNER‑OCCUPANT OF RESIDENTIAL PROPERTY QUALIFIES FOR THE FOUR PERCENT ASSESSMENT RATIO ALLOWED OWNER‑OCCUPIED RESIDENTIAL PROPERTY, IF THE OWNER IS OTHERWISE QUALIFIED AND THE RESIDENCE IS NOT RENTED FOR MORE THAN ONE HUNDRED DAYS A YEAR, AND TO DELETE OTHER REFERENCES TO RENTAL OF THESE RESIDENCES; AND TO AMEND SECTION 12‑54‑240, RELATING TO DISCLOSURE OF RECORDS, REPORTS, AND RETURNS WITH THE DEPARTMENT OF REVENUE, SO AS TO PROVIDE VERIFICATION THAT THE FEDERAL SCHEDULE E CONFORMS WITH THE SAME DOCUMENT REQUIRED BY A COUNTY ASSESSOR IS NOT PROHIBITED.

Amend Title To Conform

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

SECTION 1. A. Section 12‑43‑220(c)(2)(iv) of the 1976 Code is amended by adding a new paragraph before the last undesignated paragraph to read:

“If the owner or the owner’s agent has made a proper certificate as required pursuant to this subitem and the owner is otherwise eligible, the owner is deemed to have met the burden of proof and is allowed the four percent assessment ratio allowed by this item, if the residence that is the subject of the application is not rented for more than seventy-two days in a calendar year. For purposes of determining eligibility, rental income, and residency, the assessor annually may require a copy of applicable portions of the owner’s federal and state tax returns, as well as the Schedule E from the applicant’s federal return for the applicable tax year.”

B. Section 12‑43‑220(c) of the 1976 Code, as added by Act 145 of 2005, is amended by deleting subitem (7) which reads:

“(7) Notwithstanding any other provision of law, the owner‑occupant of a legal residence is not disqualified from receiving the four percent assessment ratio allowed by this item, if the taxpayer’s residence meets the requirements of Internal Revenue Code Section 280A(g) as defined in Section 12‑6‑40(A) and the taxpayer otherwise is eligible to receive the four percent assessment ratio.”

C. This SECTION takes effect upon approval by the Governor and applies to property tax years beginning after property tax year 2013.

SECTION 2. Section 12‑54‑240(B) of the 1976 Code, as last amended by Act 110 of 2007, is further amended by adding an appropriately numbered item at the end to read:

“( ) verification that the federal Schedule E filed with the department is the same as the Schedule E required by the assessor pursuant to Section 12‑43‑220(c).”

SECTION 3. Section 12‑36‑920(A) of the 1976 Code, as last amended by Act 56 of 2005, is further amended to read:

“(A) A sales tax equal to seven percent is imposed on the gross proceeds derived from the rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodgings, or sleeping accommodations are furnished to transients for a consideration. This tax does not apply:

(1) where the facilities consist of less than six sleeping rooms, contained on the same premises, which is used as the individual’s place of abode; or

(2) to gross proceeds from rental income wholly excluded from the gross income of the taxpayer pursuant to Internal Revenue Code Section 280A(g) as that code is defined in Section 12‑6‑40(A).

The gross proceeds derived from the lease or rental of sleeping accommodations supplied to the same person for a period of ninety continuous days are not considered proceeds from transients. The tax imposed by this subsection (A) does not apply to additional guest charges as defined in subsection (B).”

SECTION 4. A. Section 12‑37‑220(B)(16) of the 1976 Code is amended to read:

“(16)(a) The property of any religious, charitable, eleemosynary, educational, or literary society, corporation, trust, or other association, when the property is used by it primarily for the holding of its meetings and the conduct of the business of the society, corporation, trust, or association and no profit or benefit there from inures to the benefit of any private stockholder or individual.

(b) The property of any religious, charitable, or eleemosynary society, corporation, trust, or other association when the property is acquired for the purpose of building or renovating residential structures on it for not‑for‑profit sale to economically disadvantaged persons. The total properties for which the religious, charitable, or eleemosynary society, corporation, trust, or other association may claim this exemption in accordance with this paragraph may not exceed fifty acres per county within the State.

(c) The exemption allowed pursuant to subitem (a) of this item extends to real property owned by an organization described in subitem (a) and which qualifies as a tax exempt organization pursuant to Internal Revenue Code Section 501(c)(3), when the real property is held for a future use by the organization that would qualify for the exemption allowed pursuant to subitem (a) of this item or held for investment by the organization in sole pursuit of the organization’s exempt purposes and while held this real property is not rented or leased for a purpose unrelated to the exempt purposes of the organization and the use of the real property does not inure to the benefit of any private stockholder or individual. Real property donated to the organization which receives the exemption allowed pursuant to this subitem is allowed the exemption for no more than three consecutive property tax years. If real property acquired by the organization by purchase receives the exemption allowed pursuant to this subitem and is subsequently sold without ever having been put to the exempt use, the exemption allowed pursuant to this subitem is deemed terminated as of December thirty‑first preceding the year of sale and the property is subject to property tax for the year of sale to which must be added a recapture amount equal to the property tax that would have been due on the real property for not more than the four preceding years in which the real property received the exemption allowed pursuant to this subitem. The recapture amount is deemed property tax for all purposes for payment and collection.

(d) To qualify for the exemption allowed by this item, a trust must be a trust that is established solely for the benefit of a religious organization.”

B. Section 12‑24‑40(8) of the 1976 Code is amended to read:

“(8) transferring realty to a corporation, a partnership, or a trust as a stockholder, partner, or trust beneficiary of the entity or so as to become a stockholder, partner, or trust beneficiary of the entity as long as no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in the stock or interest held by the grantor. However, except for transfers from one family trust to another family trust without consideration or transfers from a trust established for the benefit of a religious organization to the religious organization, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee, even if the realty is transferred to another corporation, a partnership, or trust;”

C. This SECTION takes effect upon approval by the Governor and applies to property tax years beginning after 2013.

SECTION 5. A. Section 12‑43‑220(c)(8) of the 1976 Code is amended to read:

“(8)(i) For ownership interests in residential property created by deed if the interest in the property has not already transferred by operation of law, when the individual claiming the special four percent assessment ratio allowed by this item has an ownership interest in the residence that is less than fifty percent ownership in fee simple, then the value of the residence allowed the special four percent assessment ratio is a percentage of that value equal to the individual’s ownership interest in the residence, but not less than the amount provided pursuant to subitem (4) of this item. This subitem (8) does not apply in the case of a residence otherwise eligible for the special four percent assessment ratio when occupied jointly by a married couple or which remains occupied by a spouse legally separated from a spouse who has abandoned the residence. If the special four percent assessment ratio allowed by this item applies to only a fraction of the value of residence, then the exemption allowed pursuant to Section 12‑37‑220(B)(47) applies only to value attributable to the taxpayer’s ownership interest.

(ii) Notwithstanding ~~subitem~~ sub-subitem (i), for ownership interests in residential property created by deed if the interest in the property has not already transferred by operation of law, an applicant may qualify for the four percent assessment ratio on the entire value of the property if the applicant:

(A) owns at least a twenty‑five percent interest in the subject property with immediate family members;

(B) is not a member of a household currently receiving the four percent assessment ratio on another property; and

(C) otherwise qualifies for the four percent assessment ratio.

(iii) This subitem (8) does not apply to property held exclusively by:

(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.

The exception contained in this sub-subitem (iii) does not apply if the applicant does not otherwise qualify for the four percent assessment ratio, including the requirement that the applicant, nor any member of the applicant’s household, claims the four percent assessment ratio on another residence.

For purposes of this subitem, ‘immediate family member’ means a parent, child, or sibling.”

B. This SECTION takes effect upon approval by the Governor and applies to property tax years beginning after 2011. If the property tax assessor determines that a person denied the four percent special assessment ratio in property tax year 2012 or 2013 now qualifies pursuant to the provisions of this SECTION, the person must be refunded any property taxes paid in excess of the amount owed.

SECTION 6. Section 12‑43‑220(c)(1) of the 1976 Code is amended to read:

“(c)(1) 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. When the legal residence is located on leased or rented property and the residence is owned and occupied by the owner of a residence on leased property, even though at the end of the lease period the lessor becomes the owner of the residence, the assessment for the residence is at the same ratio as provided in this item. If the lessee of property upon which he has located his legal residence is liable for taxes on the leased property, then the property upon which he is liable for taxes, not to exceed five acres contiguous to his legal residence, must be assessed at the same ratio provided in this item. If this property has located on it any rented mobile homes or residences which are rented or any business for profit, this four percent value does not apply to those businesses or rental properties. However, if the person claiming the four percent assessment ratio resides in the mobile home or single family residence and only rents a portion of the mobile home or single family residence to another individual as a residence, the foregoing provision does not apply and the four percent assessment ratio must be applied to the entire mobile home or single family residence. For purposes of the assessment ratio allowed pursuant to this item, a residence does not qualify as a legal residence unless the residence is determined to be the domicile of the owner‑applicant.”

SECTION 7. Except where otherwise provided, this act takes effect upon approval by the Governor.

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