**South Carolina General Assembly**

121st Session, 2015-2016

**A160, R165, H4328**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. White

Document Path: l:\council\bills\dka\3116sa15.docx

Introduced in the House on June 3, 2015

Introduced in the Senate on February 24, 2016

Last Amended on April 7, 2016

Passed by the General Assembly on April 14, 2016

Governor's Action: April 21, 2016, Signed

Summary: Quarterly Income Tax Withholdings

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

6/3/2015 House Introduced and read first time ([House Journal‑page 226](file:///h:\HJ%20Archive\2015\06-03-15.docx))

6/3/2015 House Referred to Committee on **Ways and Means** ([House Journal‑page 226](file:///h:\HJ%20Archive\2015\06-03-15.docx))

2/11/2016 House Committee report: Favorable **Ways and Means** ([House Journal‑page 84](file:///h:\HJ%20Archive\2016\02-11-16.docx))

2/23/2016 House Read second time ([House Journal‑page 36](file:///h:\HJ%20Archive\2016\02-23-16.docx))

2/23/2016 House Roll call Yeas‑112 Nays‑0 ([House Journal‑page 36](file:///h:\HJ%20Archive\2016\02-23-16.docx))

2/24/2016 House Adopted, sent to Senate ([House Journal‑page 11](file:///h:\HJ%20Archive\2016\02-24-16.docx))

2/24/2016 Senate Introduced and read first time ([Senate Journal‑page 13](file:///h:\SJ%20Archive\2016\02-24-16.docx))

2/24/2016 Senate Referred to Committee on **Finance** ([Senate Journal‑page 13](file:///h:\SJ%20Archive\2016\02-24-16.docx))

3/23/2016 Senate Committee report: Favorable with amendment **Finance** ([Senate Journal‑page 16](file:///h:\SJ%20Archive\2016\03-23-16.docx))

4/7/2016 Senate Committee Amendment Adopted ([Senate Journal‑page 23](file:///h:\SJ%20Archive\2016\04-07-16.docx))

4/7/2016 Senate Read second time ([Senate Journal‑page 23](file:///h:\SJ%20Archive\2016\04-07-16.docx))

4/7/2016 Senate Roll call Ayes‑37 Nays‑2 ([Senate Journal‑page 23](file:///h:\SJ%20Archive\2016\04-07-16.docx))

4/12/2016 Senate Read third time and returned to House with amendments ([Senate Journal‑page 10](file:///h:\SJ%20Archive\2016\04-12-16.docx))

4/14/2016 House Concurred in Senate amendment and enrolled ([House Journal‑page 56](file:///h:\HJ%20Archive\2016\04-14-16.docx))

4/14/2016 House Roll call Yeas‑81 Nays‑0 ([House Journal‑page 56](file:///h:\HJ%20Archive\2016\04-14-16.docx))

4/19/2016 Ratified R 165

4/21/2016 Signed By Governor

4/27/2016 Effective date 04/21/16

5/2/2016 Act No. 160

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=4328&session=121&summary=B) at the website

**VERSIONS OF THIS BILL**

[6/3/2015](file:///p:\pprever\2015-16\4328_20150603.docx)

[2/11/2016](file:///p:\pprever\2015-16\4328_20160211.docx)

[3/23/2016](file:///p:\pprever\2015-16\4328_20160323.docx)

[4/7/2016](file:///p:\pprever\2015-16\4328_20160407.docx)

(A160, R165, H4328)

**AN ACT** **TO AMEND SECTION 12‑8‑1530, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE QUARTERLY INCOME TAX WITHHOLDINGS, SO AS TO CHANGE THE DUE DATE OF THE FOURTH QUARTER RETURN FROM THE LAST DAY OF FEBRUARY TO THE LAST DAY OF JANUARY; TO AMEND SECTION 12‑8‑1550, RELATING TO THE DUE DATE FOR FILING STATEMENTS REGARDING INCOME TAX WITHHOLDINGS WITH THE DEPARTMENT OF REVENUE, SO AS TO CHANGE THE DUE DATE FROM THE LAST DAY OF FEBRUARY TO THE LAST DAY OF JANUARY; TO AMEND SECTION 12‑6‑40, AS AMENDED, RELATING TO THE APPLICATION OF THE INTERNAL REVENUE CODE TO STATE INCOME TAX LAWS, SO AS TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE TO THE YEAR 2015 AND TO PROVIDE THAT IF THE INTERNAL REVENUE CODE SECTIONS ADOPTED BY THIS STATE ARE EXTENDED, THEN THESE SECTIONS ALSO ARE EXTENDED FOR SOUTH CAROLINA INCOME TAX PURPOSES; TO AMEND SECTION 12‑6‑4970, RELATING TO THE TIME TO FILE RETURNS, SO AS TO ADD REQUIREMENTS FOR WHEN A PARTNERSHIP MUST FILE; TO AMEND SECTION 12‑8‑590, RELATING TO TAX WITHHOLDING ON DISTRIBUTIONS TO NONRESIDENTIAL SHAREHOLDERS OF “S” CORPORATIONS AND NONRESIDENT PARTNERS, SO AS TO CHANGE THE DUE DATE FOR FILING WITHHOLDINGS FOR NONRESIDENT PARTNERS; TO AMEND SECTION 12‑13‑80, RELATING TO INCOME TAX RETURNS ON BUILDING AND LOAN ASSOCIATIONS, SO AS TO CHANGE THE DUE DATE FOR FILING RETURNS; TO AMEND SECTION 12‑20‑20, RELATING TO ANNUAL REPORTS FILED BY CORPORATIONS, SO AS TO CHANGE THE DUE DATE OF THE ANNUAL REPORTS; TO AMEND SECTION 12‑28‑110, RELATING TO MOTOR FUEL USER FEE DEFINITIONS, SO AS TO ADD A DEFINITION FOR “DIESEL GALLON EQUIVALENT” AND “GASOLINE GALLON EQUIVALENT”; BY ADDING SECTION 12‑28‑120 SO AS TO CLARIFY CERTAIN REFERENCES TO THE TERM “GALLON”; TO AMEND SECTION 12‑36‑2120, AS AMENDED, RELATING TO EXEMPTIONS FROM THE SALES TAX, SO AS TO ADD CERTAIN GASES TO THE SALES TAX EXEMPTION; AND TO AMEND SECTION 12‑28‑1125, RELATING TO THE REQUIREMENTS OF AN OCCASIONAL IMPORTER’S LICENSE OR BONDED IMPORTER’S LICENSE TO BRING CERTAIN MOTOR FUEL INTO THIS STATE, SO AS TO REQUIRE A LICENSE REGARDLESS OF THE METHOD OF TRANSPORTATION USED TO DELIVER THE MOTOR FUEL.**

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

**Conforming due date of fourth quarter withholding returns**

SECTION 1. Section 12‑8‑1530(A) of the 1976 Code is amended to read:

“(A) A withholding agent shall file a quarterly return in a form prescribed by the department indicating the total amount withheld pursuant to this chapter during the calendar quarter. The return must be filed even in quarters when no income tax has been withheld. The return must be filed on or before dates required for filing federal quarterly withholding returns specified in Internal Revenue Code Section 6071 and Internal Revenue Code Regulation Section 31.6071(a)(1), except the fourth quarter return. The fourth quarter return is due on or before the last day of January following the calendar year of the withholding.”

**Conforming due date of certain withholding return filings**

SECTION 2. Section 12‑8‑1550(A) of the 1976 Code is amended to read:

“(A) On or before the last day of January following the calendar year of the withholding, the following items must be filed with the department:

(1) the original copy of the statement required by Section 12‑8‑1540;

(2) a recapitulation and reconciliation of taxes withheld and paid in the form the department prescribes.”

**Internal Revenue Code conformity**

SECTION 3. Section 12‑6‑40(A)(1)(a) and (c) of the 1976 Code, as last amended by Act 5 of 2015, is further amended to read:

“(a) Except as otherwise provided, ‘Internal Revenue Code’ means the Internal Revenue Code of 1986, as amended through December 31, 2015, and includes the effective date provisions contained in it.

(c) If Internal Revenue Code sections adopted by this State which expired or portions thereof expired on December 31, 2015, are extended, but otherwise not amended, by congressional enactment during 2016, these sections or portions thereof also are extended for South Carolina income tax purposes in the same manner that they are extended for federal income tax purposes.”

**Conforming filing dates for “S” corporations and partnerships**

SECTION 4. A. Section 12‑6‑4970(B) of the 1976 Code is amended to read:

“(B)(1) Returns of ‘S’ corporations and partnerships must be filed on or before the fifteenth day of the third month following the taxable year.

(2) Returns for foreign corporations that do not maintain an office or place of business in the United States must be filed on or before the fifteenth day of the sixth month following the taxable year.”

B. Section 12‑8‑590(C) of the 1976 Code is amended to read:

“(C) Partnerships are required to withhold income taxes at a rate of five percent on a nonresident partner’s share of South Carolina taxable income of the partnership, whether distributed or undistributed, and pay the withheld amount to the department in the manner prescribed by the department. The partnership shall make a return and pay over the withheld funds on or before the fifteenth day of the third month following the close of its tax year. Taxes withheld in the name of the nonresident partner must be used as credit against taxes due at the time the nonresident files income taxes for the taxable year.”

C. Section 12‑13‑80 of the 1976 Code is amended to read:

“Section 12‑13‑80. Returns with respect to the income tax herein imposed shall be in such form as the department may prescribe. Returns shall be filed with the department on or before the fifteenth day of the fourth month following the close of the accounting period of the association.”

D. Section 12‑20‑20(B) of the 1976 Code is amended to read:

“(B) Unless otherwise provided, corporations shall file an annual report on or before the fifteenth day of the fourth month following the close of the taxable year.”

E. This SECTION takes effect upon approval by the Governor and first applies to tax years beginning after 2015.

**Definitions**

SECTION 5. Section 12‑28‑110 of the 1976 Code is amended by adding two appropriately numbered items to read:

“( ) ‘Diesel gallon equivalent’ or ‘DGE’ means the amount of liquefied natural gas containing the same energy content as one gallon of diesel. For purposes of calculating the motor fuel user fee on liquefied natural gas that is used or consumed in this State in producing or generating power for propelling a motor vehicle, each 6.06 pounds of liquefied natural gas equals one gallon of motor fuel.

( ) ‘Gasoline gallon equivalent’ or ‘GGE’ means the amount of compressed natural gas or liquefied petroleum gas containing the same energy content as one gallon of gasoline. For purposes of calculating the motor fuel user fee on compressed natural gas or liquefied petroleum gas that is used or consumed in South Carolina in producing or generating power for propelling a motor vehicle, each 126.67 cubic feet of compressed natural gas, or 5.66 pounds if the compressed natural gas is dispensed via a mass flow meter, equals one gallon of motor fuel and each gallon of liquefied petroleum gas equals .73 of a gallon of motor fuel.”

**Clarifying certain references to the term gallon**

SECTION 6. Article 1, Chapter 28, Title 12 of the 1976 Code is amended by adding:

“Section 12‑28‑120. For purposes of this chapter, any reference to the term gallon with respect to liquefied natural gas means diesel gallon equivalent (DGE) and any reference to the term gallon with respect to compressed natural gas or liquefied petroleum gas means gasoline gallon equivalent (GGE). For any gaseous product for which a conversion factor is not provided for in this chapter, based on the best information available, the department shall establish a temporary conversion factor to determine the gallon equivalent. The department shall subsequently submit to the General Assembly a recommended legislative change for this conversion factor.”

**Sales tax exemption for certain gases**

SECTION 7. Section 12‑36‑2120(15) of the 1976 Code is amended by adding two appropriately lettered subitems to read:

“( ) natural gas sold to a person with a miscellaneous motor fuel user fee license pursuant to Section 12‑28‑1139, who will compress it to produce compressed natural gas, or cool it to produce liquefied natural gas, for use as a motor fuel and remit the motor fuel user fees as required by law; and

( ) liquefied petroleum gas sold to a person with a miscellaneous motor fuel user fee license pursuant to Section 12‑28‑1139, who will use the liquefied petroleum gas as a motor fuel and remit the motor fuel user fees as required by law;”

**Licenses required for importing certain motor fuel**

SECTION 8. Section 12‑28‑1125(A) of the 1976 Code is amended to read:

“(A) Each person who wishes to cause motor fuel subject to the user fee to be delivered into this State on his behalf, for his own account, or for resale to a purchaser in this State, from another state by any means into storage facilities other than a qualified terminal, shall apply and obtain an occasional importer’s license or a bonded importer’s license, at the discretion of the applicant.”

**Severability**

SECTION 9. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

**Time effective**

SECTION 10. This act takes effect upon approval by the Governor.

Ratified the 19th day of April, 2016.

Approved the 21st day of April, 2016.

\_\_\_\_\_\_\_\_\_\_