~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 18, 2015

**S. 397**

Introduced by Senators Leatherman, Setzler and O’Dell

S. Printed 2/18/15--S.

Read the first time February 3, 2015.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (S. 397) to amend Section 12‑6‑40, as amended, Code of Laws of South Carolina, 1976, relating to the application of the Internal Revenue Code to State Income, etc., respectfully

**REPORT:**

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

Amend the bill, as and if amended, by striking SECTION 1 and inserting:

/ SECTION 1. Section 12‑6‑40(A)(1)(a) and (c) of the 1976 Code, as last amended by Act 126 of 2014, 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, ~~2013~~ 2014, 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, ~~2013~~ 2014, are extended, but otherwise not amended, by congressional enactment during ~~2014~~ 2015, 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.” /

Renumber sections to conform.

Amend title to conform.

HUGH K. LEATHERMAN, SR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

This bill would have no expenditure impact to the general fund, federal funds, and other funds.

This bill would increase general fund income tax revenue by $196,281 in FY 2014-15 due to the expiration of the refinery property provision.

**Explanation of Fiscal Impact**

**State Expenditure**

The Department of Revenue anticipates that this bill would have no expenditure impact to the general fund, federal funds, and other funds.

**State Revenue**

This bill updates South Carolina’s conformity to the Internal Revenue Code (IRC) through December 31, 2014. Research by the Department of Revenue reports the only significant federal tax legislation enacted in 2014 was the Tax Increase Prevention Act of 2014. This legislation retroactively restored over fifty federal tax provisions that expired at the end of 2013. Of these extended provisions, twenty-four directly impact South Carolina taxpayers. The attached table provides a brief summary of the twenty-four provisions including the year they were first enacted.

South Carolina has proactively adopted the twenty-four extended federal tax provisions that impact South Carolina taxpayers pursuant to §12-6-40(A)(1)(c), as added in Act 126 of 2014. This new subsection adopted these expired provisions of the federal IRC for South Carolina income tax purposes in the event any of these expired sections were extended, but not otherwise amended, by the federal government in 2014.

These twenty-four temporary provisions have generally been in the Internal Revenue Code for years and are routinely extended as they were most recently extended in the Tax Increase Prevention Act of 2014. While Congress extended these provisions in 2014, this is a one-year extension that expires at the end of 2014. Additional federal legislation is necessary to continue their effectiveness for 2015 and beyond.

Given the continuing nature of these twenty-four provisions, proactively adopted under the South Carolina income tax code, we expect no revenue impact from the continuation of the extended provisions.

One provision that impacts South Carolina taxpayers was not extended for 2014. This provision allows taxpayers to expense 50 percent of the cost of qualified refinery property when placed in service. Normally, this type of property is depreciated over a ten-year time frame. Qualified refinery property includes assets used in the refining of liquid fuels, including biomass or biodiesel. The federal provision was originally enacted as part of the Energy Policy Act of 2005. It was extended through 2013 as part of the Emergency Economic Stabilization Act of 2008. Based on U.S. revenue estimates of extending this provision by the U.S. Joint Committee on Taxation and adjusting for South Carolina taxpayers only, we expect that the expiration of this provision will increase income tax revenue by $196,281 in FY 2014-15 when the impacted taxpayers file their 2014 tax returns.

The Tax Increase Prevention Act of 2014 also created the Achieving a Better Life Experience Act (ABLE) tax-favored savings accounts for individuals with disabilities for tax years after 2014. The ABLE Act authorizes states to create an ABLE program similar to Code Section 529 college savings accounts. Any revenue impact from this authorization will be determined when the South Carolina enabling legislation is introduced.

**Federal Tax Provisions Impacting South Carolina**

**Taxpayers Extended though Tax Year 2014 by the First**

**"Tax Increase Prevention Act of 2014" Enacted**

1 Deduction for qualified tuition and related expenses 1978

2 Tax credit for research and experimentation expenses

(SC credit uses federal credit to calculate SC tax liability

reduction, without federal credit the state credit is limited to

credits earned in previous years and carried forward due to

lack of tax liability) 1981

3 Empowerment zone tax incentives 1993

4 Accelerated depreciating for business property on Indian

reservations 1993

5 Special rules applicable to qualified small business stock 1993

6 Above the line deduction of up to $250 for teacher classroom expenses 2002

7 Increase in section 179 expensing amounts and threshold limits to

$500,000/$2,000,000. In 2014 limitations would revert back

to $25,000 with a $200,000 investment limit without further

federal legislation. 2003

8 15 year straight line cost recovery for qualified leasehold,

restaurant, and retail improvements 2004

9 Special rule for sales or dispositions to implement Federal

Energy Regulatory Commission or state electric restructuring policy 2004

10 Seven year recovery period for certain motorsports racing facilities 2004

11 Special expensing rules for certain film and television productions 2004

12 Enhanced charitable deduction for contributions of food inventory 2005

13 Tax free distributions from IRAs to certain public charities

for individuals aged 70-1/2 or older, not to exceed $100,000

per taxpayer per year; special transition rules for certain

distributions made in December 2012 and January 2013 2006

14 Premiums for mortgage insurance deductible as interest that

is qualified residential interest 2006

15 Extension of energy efficient commercial buildings deduction 2006

16 Basis adjustment to stock of S corporations making charitable

contributions of property 2006

17 Automatic extension of the period of years required to amortize

certain unfunded liabilities for multiemployer defined benefit

pension plans and additional funding rules endangered or critical

status plans 2006

18 Contributions of capital gain real property made for qualified

conservation purposes 2006

19 Election to expense advanced mine safety equipment 2006

20 Modify tax treatment of certain payments under existing

arrangements to controlling exempt organizations 2006

21 Discharge of indebtedness on principal residence excluded

from gross income of individuals 2007

22 Change the depreciation classification for race horses that are

two-years old or younger from seven-year property to three-year

property 2008

23 Reduction in recognition period for S corporation built in gains tax 2009

24 Extends income exclusion for employer provided mass transit

and parking benefits 2009

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 12‑6‑40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, 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 2014.

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

SECTION 1. Section 12‑6‑40(A)(1)(a) of the 1976 Code, as last amended by Act 126 of 2014, 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, ~~2013~~ 2014, and includes the effective date provisions contained in it.”

SECTION 2. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑