



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
 (803)734-0640 • RFA.SC.GOV/IMPACTS

Bill Number: H. 4328 As signed by the Governor on April 21, 2016
Author: White
Subject: Quarterly Income Tax Withholdings
Requestor: House of Representatives
RFA Analyst(s): Shuford
Impact Date: June 29, 2016

Estimate of Fiscal Impact

	FY 2016-17	FY 2017-18
State Expenditure		
General Fund	\$0	\$0
Other and Federal	\$0	\$0
Full-Time Equivalent Position(s)	0.00	0.00
State Revenue		
General Fund	(\$7,849,100)	\$0
Other and Federal	\$0	\$0
Local Expenditure	\$0	\$0
Local Revenue	\$0	\$0

Fiscal Impact Summary

This bill will reduce General Fund individual, corporate, and savings and loan association income tax revenue and corporate license fees by \$7,849,100 in FY 2016-17.

Explanation of Fiscal Impact

Explanation of Bill Signed by the Governor on April 21, 2016

State Expenditure

The Department of Revenue indicates that this bill as amended would have no expenditure impact to the General Fund, Federal Funds, or Other Funds.

State Revenue

The following analysis reviews all sections of the bill as amended as they are referenced in Act 160 of 2016.

Sections 1 and 2. This bill as amended changes the due date of the fourth quarter income tax withholding return from the last day in February to the last day in January. The bill also changes the due date for W-2 forms and the annual withholding recapitulation and reconciliation report to the last day in January. These proposed South Carolina date changes correspond with current federal due date requirements for employers' annual reports for federal unemployment tax withholdings, withheld federal income tax, and Form W-2 wage, tips, and other compensation paid to employees. We expect no revenue impact over a fiscal year period from changing the South Carolina return due dates.

Section 3. This section updates South Carolina’s conformity to the Internal Revenue Code (IRC) through December 31, 2015 by amending Section 12-6-40(A)(1)(a). Research by the Department of Revenue reports that three federal tax acts enacted in 2015 may have a revenue impact if adopted through this conformity legislation. The attached table provides a brief summary of the 2015 federal tax law changes and their estimated impact on General Fund income tax revenue for FY 2016-17.

2015 Federal Acts and Provisions with South Carolina Revenue Impacts for H. 4328	FY 2016-17
H.R. 3236: The Surface Transportation and Veterans Health Care Choice Improvement Act of 2015	
<i>II. Revenue Provisions</i>	
3. Modification of mortgage information reporting requirements (SC does not adopt this section, but reporting requirement will increase taxpayer compliance)	\$ 105,200
4. Require consistency between estate tax value and income tax basis of assets acquired from a decedent	\$ 155,050
5. Clarify the 6-year statute of limitations in the case of overstatement basis (SC does not adopt the federal statute of limitations, but does extend SC statute of limitations for federal notice of adjustments)	\$ 34,250
H.R. 1314: The Bipartisan Budget Act of 2015	
<i>XI. Revenue Provisions Related to Tax Compliance</i>	
1. Partnership audits and adjustments	\$ 0
2. Partnership interests created by gift	\$ 551,900
H.R. 2029(2)(Q): Protecting Americans from Tax Hikes Act of 2015	
<i>III. Miscellaneous Provisions</i>	
<i>A. Family Tax Relief</i>	
2. Improvements to Section 529 accounts (Computer technology and equipment permanently allowed as an expense; refunded tuition is expense if re-contributed within 60 days of refund)	(\$ 6,250)
4. Exclusion for wrongfully incarcerated individuals	(\$ 5,000)
<i>B. Real Estate Investment Trusts (“REITs”)</i>	
1. Restriction on tax-free spinoffs involving REITs, including transition rules	\$ 61,900
2. Reduction in percentage limitation on assets of REIT that may be taxable REIT subsidiaries	\$ 0
3. Prohibited transaction safe harbors	\$ 26,400
11. Treatment of certain services provided by taxable REIT subsidiaries	(\$ 1,100)
16. Dividends derived from RICs and REITs ineligible for deduction under United States source portion of dividends from certain foreign corporations	\$ 36,050
<i>C. Additional Provisions</i>	
1. Deductibility of charitable contributions to agricultural research organizations	(\$ 6,226)
6. Church plan clarification	(\$ 3,750)

2015 Federal Acts and Provisions with South Carolina Revenue Impacts for H. 4328	FY 2016-17
<i>D. Revenue Provisions</i>	
1. Updated ASHRAF standards for energy efficient commercial buildings deduction	\$ 4,850
3. Exclusion from gross income of certain clean coal power grants to non-corporate taxpayers	(\$ 219,150)
4. Clarify the valuation rule for early termination of certain charitable remainder unitrusts	\$ 54,800
5. Prevention of transfer of certain losses from tax indifferent parties	\$ 67,860
	\$ 857,900

The following analysis reviews the federal tax provisions amended in 2015 that have a substantial South Carolina revenue impact.

The Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 modifies mortgage information reporting requirements to require the amount of the outstanding principal balance, the address of the property, and the loan origination date. This additional information is intended to increase taxpayer compliance. This act also requires that the fair market value for income tax purposes of a property acquired from a decedent be consistent with the value as determined for estate tax purposes. This is designed to prevent a taxpayer from overstating the basis of inherited property when it is sold, in many cases years after the estate is closed. This inconsistency in fair market value may reduce the amount of capital gains tax due when the property is sold.

The Bipartisan Budget Act of 2015 clarifies that family partnership rules will not affect the determination of whether a person with a capital interest is a partner. With this federal change, a person with capital interest will be recognized as a partner even if the interest is received by gift as long as the capital is a material income-producing factor in the partnership and the partnership determination would be valid under generally applicable rules.

The Protecting Americans from Tax Hikes Act of 2015 allows a non-corporate taxpayer to exclude from gross income any grant, award, or allowance made pursuant to Section 402 (Clean Coal Power Initiatives) of the Energy Policy Act of 2005. This exclusion is applicable to grants received in tax years beginning after 2011.

All other federal tax law changes impacting South Carolina revenue are itemized in the table above. In summary, we expect that updating conformity in Section 12-6-40(A)(1)(a) through the end of 2015 will increase General Fund income tax revenue by \$857,900 in FY 2016-17.

Section 4. Section 4A changes the filing date in Section 12-6-4970 for partnership returns to the fifteenth day of the third month following the close of the tax year, rather than the fourth month. These returns allocate income from the partnership to the partners, which is included on the partner's individual income tax return. We expect no revenue impact from this date change.

Section 4B changes the filing date in Section 12-8-590 for withholding on nonresident shareholders of Subchapter S corporations and nonresident partners to the fifteenth day of the third month following the close of the tax year, rather than the fourth month. This change will increase revenue by one additional month of withholding in FY 2016-17 for partnerships and S corporations with a tax year that begins in April 2016 and ends in March 2017. These partnerships and S corporations would currently remit nonresident withholding in July 2017, or FY 2017-18. Under the amendment, they will now pay in June 2017, or FY 2016-17. We anticipate that General Fund individual income tax revenue will increase by \$612,000 in FY 2016-17 from the July 2017 nonresident shareholder and partnership withholding payments being moved to June 2017.

Section 4C changes the filing date in Section 12-13-80 for savings and loan associations to the fifteenth day of the fourth month following the close of the tax year, rather than the third month. This change will decrease General Fund savings and loan association tax revenue by one month from the delayed filings of taxpayers with a tax year that begins in March 2016 and ends in February 2017. These taxpayers, who currently file their return in June 2017, will wait to file in July 2017, or FY 2017-18. We anticipate that General Fund savings and loan association tax revenue will decrease by \$119,000 in FY 2016-17 from the June 2017 returns being moved to July 2017, or FY 2017-18.

Section 4D changes the filing date in Section 12-20-20 for corporations to the fifteenth day of the fourth month following the close of the tax year, rather than the third month. This change will decrease General Fund corporate income tax revenue by one month for taxpayers with a tax year that begins in March 2016 and ends in February 2017. These taxpayers, who currently file their return in June 2017, will wait to file in July 2017, or FY 2017-18. The revenue impact anticipates that an estimated \$7,700,000 of tax revenue paid with the returns will be delayed to July 2017 from June 2017, and an estimated \$2,100,000 of refunds will also be delayed. Total General Fund corporate income tax revenue will decrease by \$5,600,000 in FY 2016-17. We do not anticipate any revenue impact from corporate declarations or withholdings, as those return dates are not changed by this amendment.

Corporate license fee revenue will also be impacted by the change in the corporation income tax return date. Currently, the corporate license fee is remitted on the corporate income tax return due on the fifteenth day of the third month following the close of the tax year. This due date will also change to the fourth month, which will reduce license fee revenue collections by one month in FY 2016-17. We estimate that General Fund corporate license fee revenue will decrease by \$3,600,000 in FY 2016-17 due to one less month of revenue collections.

Section 5. This section adds the definitions of diesel gallon equivalent and gasoline gallon equivalent to Section 12-28-110 to clarify the amount of natural or petroleum gas that has the equivalent energy of one gallon of diesel or gasoline fuel, respectively. This section would not affect state General Fund revenue.

Section 6. Section 12-28-120 is also added to clarify that a gallon of liquefied natural gas means diesel gallon equivalent (DGE), and that a gallon of compressed natural gas or liquefied petroleum gas means gasoline gallon equivalent (GGE). For any gaseous product for which a

conversion factor is not provided in this chapter, the Department of Revenue shall determine a conversion factor, based on the best information available, and notify the General Assembly that a legislative change is necessary. This section would not affect state General fund revenue.

Section 7. Section 12-36-2120(15) is amended to exempt a taxpayer with a miscellaneous fuel user fee license from remitting the sales and use tax on natural gas and liquefied petroleum gas as an alternative fuel sold to the licensee. Currently, sales and use tax is not levied against the sale of motor fuel. According to the Department of Revenue, there are seventy miscellaneous fuel user fee licenses issued to taxpayers. This section is amended to remove the burden of remitting any motor fuel tax due as the result of withdrawal of motor fuel for personal use from being a statutory requirement to being a voluntary submission. This section would not affect state General Fund revenue.

Section 8. Section 12-28-1125(A) is amended by repealing language that describes several different types of shipping methods of motor fuel and inserting language that refers to motor fuel shipped by any means. The individual that brings motor fuel into this state would still have to be licensed by the Department of Revenue and obtain an occasional importer's license or a bonded importer's license. This section would not affect state General Fund revenue.

Local Expenditure

N/A

Local Revenue

N/A

Explanation of Amendment by Senate Finance Sales and Income Tax Subcommittee on March 15, 2016

State Expenditure

The Department of Revenue indicates that this bill as amended would have no expenditure impact to the General Fund, Federal Funds, or Other Funds.

State Revenue

For descriptive purposes, the sections are referenced based upon consecutive numbering of each unnumbered section in the amendment.

Section 1. This section amends Section 12-6-40(A)(1)(a), which updates South Carolina's conformity to the Internal Revenue Code (IRC) through December 31, 2015. Research by the Department of Revenue reports that three federal tax acts enacted in 2015 may have a revenue impact if adopted through this conformity legislation. The table attached provides a brief summary of the 2015 federal tax law changes and their estimated impact on General Fund income tax revenue for FY 2016-17. The following analysis reviews the federal tax provisions amended in 2015 that have a substantial South Carolina revenue impact.

The Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 modifies mortgage information reporting requirements to require the amount of the outstanding

principal balance, the address of the property, and the loan origination date. This additional information is intended to increase taxpayer compliance. This act also requires that the fair market value for income tax purposes of a property acquired from a decedent be consistent with the value as determined for estate tax purposes. This is designed to prevent a taxpayer from overstating the basis of inherited property when it is sold, in many cases years after the estate is closed. This inconsistency in fair market value may reduce the amount of capital gains tax due when the property is sold.

The Bipartisan Budget Act of 2015 clarifies that family partnership rules will not affect the determination of whether a person with a capital interest is a partner. With this federal change, a person with capital interest will be recognized as a partner even if the interest is received by gift as long as the capital is a material income-producing factor in the partnership and the partnership determination would be valid under generally applicable rules.

The Protecting Americans from Tax Hikes Act of 2015 allows a non-corporate taxpayer to exclude from gross income any grant, award, or allowance made pursuant to Section 402 (Clean Coal Power Initiatives) of the Energy Policy Act of 2005. This exclusion is applicable to grants received in tax years beginning after 2011.

All other federal tax law changes impacting South Carolina revenue are itemized in the table below. In summary, we expect that updating conformity in Section 12-6-40(A)(1)(a) through the end of 2015 will increase General Fund income tax revenue by \$857,900 in FY 2016-17.

2015 Federal Acts and Provisions with South Carolina Revenue Impacts for H. 4328	FY 2016-17
H.R. 3236: The Surface Transportation and Veterans Health Care Choice Improvement Act of 2015	
<i>II. Revenue Provisions</i>	
3. Modification of mortgage information reporting requirements (SC does not adopt this section, but reporting requirement will increase taxpayer compliance)	\$ 105,200
4. Require consistency between estate tax value and income tax basis of assets acquired from a decedent	\$ 155,050
5. Clarify the 6-year statute of limitations in the case of overstatement basis (SC does not adopt the federal statute of limitations, but does extend SC statute of limitations for federal notice of adjustments)	\$ 34,250
H.R. 1314: The Bipartisan Budget Act of 2015	
<i>XI. Revenue Provisions Related to Tax Compliance</i>	
1. Partnership audits and adjustments	\$ 0
2. Partnership interests created by gift	\$ 551,900

2015 Federal Acts and Provisions with South Carolina Revenue Impacts for H. 4328	FY 2016-17
H.R. 2029(2)(Q): Protecting Americans from Tax Hikes Act of 2015	
<i>III. Miscellaneous Provisions</i>	
<i>A. Family Tax Relief</i>	
2. Improvements to Section 529 accounts (Computer technology and equipment permanently allowed as an expense; refunded tuition is expense if re-contributed within 60 days of refund)	(\$ 6,250)
4. Exclusion for wrongfully incarcerated individuals	(\$ 5,000)
<i>B. Real Estate Investment Trusts (“REITs”)</i>	
1. Restriction on tax-free spinoffs involving REITs, including transition rules	\$ 61,900
2. Reduction in percentage limitation on assets of REIT that may be taxable REIT subsidiaries	\$ 0
3. Prohibited transaction safe harbors	\$ 26,400
11. Treatment of certain services provided by taxable REIT subsidiaries	(\$ 1,100)
16. Dividends derived from RICs and REITs ineligible for deduction under United States source portion of dividends from certain foreign corporations	\$ 36,050
<i>C. Additional Provisions</i>	
1. Deductibility of charitable contributions to agricultural research organizations	(\$ 6,226)
6. Church plan clarification	(\$ 3,750)
<i>D. Revenue Provisions</i>	
1. Updated ASHRAF standards for energy efficient commercial buildings deduction	\$ 4,850
3. Exclusion from gross income of certain clean coal power grants to non-corporate taxpayers	(\$ 219,150)
4. Clarify the valuation rule for early termination of certain charitable remainder unitrusts	\$ 54,800
5. Prevention of transfer of certain losses from tax indifferent parties	\$ 67,860
	\$ 857,900

Section 2. Section 2A changes the filing date in Section 12-6-4970 for partnership returns to the fifteenth day of the third month following the close of the tax year, rather than the fourth month. These returns allocate income from the partnership to the partners, which is included on the partner’s individual income tax return. We expect no revenue impact from this date change.

Section 2B changes the filing date in Section 12-8-590 for withholding on nonresident shareholders of Subchapter S corporations and nonresident partners to the fifteenth day of the third month following the close of the tax year, rather than the fourth month. This change will increase revenue by one additional month of withholding in FY 2016-17 for partnerships and S corporations with a tax year that begins in April 2016 and ends in March 2017. These partnerships and S corporations would currently remit nonresident withholding in July 2017, or

FY 2017-18. Under the amendment, they will now pay in June 2017, or FY 2016-17. We anticipate that General Fund individual income tax revenue will increase by \$612,000 in FY 2016-17 from the July 2017 nonresident shareholder and partnership withholding payments being moved to June 2017.

Section 2C changes the filing date in Section 12-13-80 for savings and loan associations to the fifteenth day of the fourth month following the close of the tax year, rather than the third month. This change will decrease General Fund savings and loan association tax revenue by one month from the delayed filings of taxpayers with a tax year that begins in March 2016 and ends in February 2017. These taxpayers, who currently file their return in June 2017, will wait to file in July 2017, or FY 2017-18. We anticipate that General Fund savings and loan association tax revenue will decrease by \$119,000 in FY 2016-17 from the June 2017 returns being moved to July 2017, or FY 2017-18.

Section 2D changes the filing date in Section 12-20-20 for corporations to the fifteenth day of the fourth month following the close of the tax year, rather than the third month. This change will decrease General Fund corporate income tax revenue by one month for taxpayers with a tax year that begins in March 2016 and ends in February 2017. These taxpayers, who currently file their return in June 2017, will wait to file in July 2017, or FY 2017-18. The revenue impact anticipates that an estimated \$7,700,000 of tax revenue paid with the returns will be delayed to July 2017 from June 2017, and an estimated \$2,100,000 of refunds will also be delayed. Total General Fund corporate income tax revenue will decrease by \$5,600,000 in FY 2016-17. We do not anticipate any revenue impact from corporate declarations or withholdings, as those return dates are not changed by this amendment.

Corporate license fee revenue will also be impacted by the change in the corporation income tax return date. Currently, the corporate license fee is remitted on the corporate income tax return due on the fifteenth day of the third month following the close of the tax year. This due date will also change to the fourth month, which will reduce license fee revenue collections by one month in FY 2016-17. We estimate that General Fund corporate license fee revenue will decrease by \$3,600,000 in FY 2016-17 due to one less month of revenue collections.

Section 3. These sections amend Section 12-28-110 to add the definitions of diesel gallon equivalent and gasoline gallon equivalent to clarify the amount of natural or petroleum gas that has the equivalent energy of one gallon of diesel or gasoline fuel, respectively. This section would not affect state General Fund revenue.

Section 4. Section 12-28-120 is also added to clarify that a gallon of liquefied natural gas means diesel gallon equivalent (DGE), and that a gallon of compressed natural gas or liquefied petroleum gas means gasoline gallon equivalent (GGE). For any gaseous product that for which a conversion factor is not provided in this chapter, the Department of Revenue shall determine a conversion factor, based on the best information available, and notify the General Assembly that a legislative change is necessary. This section would not affect state General fund revenue.

Section 5. Section 12-36-2120(15) is amended to exempt a taxpayer with a miscellaneous fuel user fee license from remitting the sales and use tax on natural gas and liquefied petroleum gas

as an alternative fuel sold to the licensee. Currently, sales and use tax is not levied against the sale of motor fuel. According to the Department of Revenue, there are seventy miscellaneous fuel user fee licenses issued to taxpayers. This section is amended to remove the burden of remitting any motor fuel tax due as the result of withdrawal of motor fuel for personal use from being a statutory requirement to being a voluntary submission. This section would not affect state General Fund revenue.

Section 6. Section 12-28-1125(A) is amended to allow motor fuel shipped into this state “by any means” into storage facilities, and replaces language that describes several different types of shipping methods of motor fuel. The individual that brings motor fuel into this state would still have to be licensed by the Department of Revenue and obtain an occasional importer’s license or a bonded importer’s license. This section would not affect state General Fund revenue.

Local Expenditure

N/A

Local Revenue

N/A

Explanation of Bill Filed on June 3, 2015

State Expenditure

The Department of Revenue indicates that this bill will have no expenditure impact on the General Fund, Federal Funds, or Other Funds.

State Revenue

This bill changes the due date of the fourth quarter income tax withholding return from the last day in February to the last day in January. The bill also changes the due date for W-2 forms and the annual withholding recapitulation and reconciliation report to the last day in January. These proposed South Carolina date changes correspond with current federal due date requirements for employers’ annual reports for federal unemployment tax withholdings, withheld federal income tax, and Form W-2 wage, tips, and other compensation paid to employees. We expect no revenue impact over a fiscal year period from changing the South Carolina return due dates.

Local Expenditure and Revenue

N/A



Frank A. Rainwater, Executive Director