



South Carolina General Assembly
116th Session, 2005-2006

Act 386 (2006) - S.1245

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

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Tax credit for ethanol or biodiesel production

Tax credit for solar heating or cooling

Tax credit for using methane-gas in manufacturing

SECTION 36.A. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

"Section [12-6-3600](#). (A) For taxable years beginning after 2006, and before 2014, there is allowed a credit against the tax imposed pursuant to this chapter for any ethanol or biodiesel facility which is in production at the rate of at least twenty-five percent of its name plate design capacity for the production of ethanol or biodiesel, before denaturing, on or before December 31, 2009. The facility must be placed in use after 2006. The credit equals twenty cents a gallon of ethanol or biodiesel produced and is allowed for sixty months beginning with the first month for which the facility is eligible to receive the credit and ending not later than December 31, 2014. The credit only may be claimed if the ethanol or biodiesel facility maintains an average production rate of at least twenty-five percent of its name plate design capacity for at least six months after the first month for which it is eligible to receive the credit.

(B) As used in this section:

- (1) 'Ethanol facility' means a plant or facility primarily engaged in the production of ethanol or ethyl alcohol derived from grain components, coproducts, or byproducts;
- (2) 'Biodiesel facility' means a plant or facility primarily engaged in the production of vegetable or animal based fuels used as a substitute for diesel fuel; and
- (3) 'Name plate design capacity' means the original designed capacity of an ethanol or biodiesel facility. Capacity may be specified as bushels of grain ground or gallons of ethanol or biodiesel produced a year.

(C) An ethanol or biodiesel facility eligible for a tax credit under subsection (A) of this section also shall receive a credit against the tax imposed pursuant to this chapter the amount of twenty cents a gallon of ethanol or biodiesel produced in excess of the original name plate design capacity which results from expansion of the facility completed after 2006 and before 2009. The tax credit is allowed for sixty months beginning with the first month for which production from the expanded facility is eligible to receive the tax credit and ending not later than 2014.

(D)(1) Pursuant to this chapter, beginning January 1, 2014, an ethanol or biodiesel facility must receive a credit against the tax imposed in the amount of seven and one-half cents a gallon of ethanol or biodiesel, before denaturing, for new production for a period not to exceed thirty-six consecutive months.

(2) For purposes of this subsection, 'new production' means production which results from a new facility, a facility which has not received credits before 2014, or the expansion of the capacity of an existing facility by at least two million gallons first placed into service after 2014, as certified by the design engineer of the facility to the Department of Revenue.

(3) For expansion of the capacity of an existing facility, 'new production' means annual production in excess of twelve times the monthly average of the highest three months of ethanol or biodiesel production at an ethanol or biodiesel facility during the twenty-four-month period immediately preceding certification of the facility by the design engineer.

(4) Credits are not allowed pursuant to this subsection for expansion of the capacity of an existing facility until production is in excess of twelve times the three-month average amount determined pursuant to this subsection during any twelve-consecutive month period beginning no sooner than January 1, 2014.

(5) The amount of a credit granted pursuant to this section based on new production must be approved by the Department of Revenue based on the ethanol or biodiesel production records as may be necessary to reasonably determine the level of new production.

(E)(1) The credits described in this section are allowed only for ethanol or biodiesel produced at a plant in this State at which all fermentation, distillation, and dehydration takes place. Credit is not allowed for ethanol or biodiesel produced or sold for use in the production of distilled spirits.

(2) Not more than twenty-five million gallons of ethanol or biodiesel produced annually at an ethanol or biodiesel facility is eligible for the credits in subsections (A) and (C) of this section, and the credits only may be claimed by a producer for the periods specified in subsections (A) and (C) of this section.

(3) Not more than ten million gallons of ethanol or biodiesel produced during a twelve-consecutive month period at an ethanol or biodiesel facility is eligible for the credit described in subsection (D) of this section, and the credit only may be claimed by a producer for the periods specified in subsection (D) of this section.

(4) Not more than one hundred twenty-five million gallons of ethanol or biodiesel produced at an ethanol or biodiesel facility by the end of the sixty-month period set forth in subsection (A) or (C) of this section is eligible for the credit under the subsection. An ethanol or biodiesel facility which receives a credit for ethanol or biodiesel produced under subsection (A) or (C) of this section may not receive a credit pursuant to subsection (D) of this section until its eligibility to receive a credit under subsection (A) or (C) of this section has been completed.

(E) The Department of Revenue shall prescribe an application form and procedures for claiming credits under this section.

(F) For purposes of ascertaining the correctness of any application for claiming a credit allowed pursuant to this section, the Department of Revenue may examine or cause to have examined, by any agent or representative designated for that purpose, any books, papers, records, or memoranda bearing upon these matters."

B.1. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

"Section [12-6-3610](#).

(A) As used in this section, renewal fuel means liquid nonpetroleum based fuels that can be placed in motor vehicle fuel tanks and used as a fuel in a highway vehicle. It includes all forms of fuel commonly or commercially known or sold as biodiesel and ethanol.

(B) A taxpayer that constructs and installs and places in service in this State a qualified commercial facility for distribution or dispensing renewable fuel is allowed a credit equal to twenty-five percent of the cost to the taxpayer against the taxpayer's liability for a tax imposed pursuant to this chapter constructing and installing the part of the distribution facility or dispensing facility, including pumps, storage tanks, and related equipment, that is directly and exclusively used for distribution, dispensing, or storing renewable fuel. A facility is qualified if the equipment used to store, distribute, or dispense renewable fuel is labeled for this purpose and clearly identified as associated with renewable fuel. The entire credit may not be taken for the taxable year in which the facility is placed in service but must be taken in three equal annual installments beginning with the taxable year in which the facility is placed in service. If, in one of the years in which the installment of a credit accrues, the portion of the facility directly and exclusively used for distributing, dispensing, or storing renewable fuel is disposed of or taken out of service, the credit expires and the taxpayer may not take any remaining installment of the credit. The unused portion of an unexpired credit may be carried forward for not more than ten succeeding taxable years.

(C) A taxpayer that constructs and places in service in this State a commercial facility for processing renewable fuel is allowed a credit equal to twenty-five percent of the cost to the taxpayer of constructing and equipping the facility. The entire credit may not be taken for the taxable year in which the facility is placed in service but must be taken in seven equal annual installments beginning with the taxable year in which the facility is placed in service. If, in one of the years in which the installment of a credit accrues, the facility with respect to which the credit was claimed is disposed of or taken out of service, the credit expires and the taxpayer may not take any remaining installment of the credit. The unused portion of an unexpired credit may be carried forward for not more than ten succeeding taxable years.

(D) A taxpayer that claims any other credit allowed under this article with respect to the costs of constructing and installing a facility may not take the credit allowed in this section with respect to the same costs."

B.2. Section [12-6-3610](#) of the 1976 Code, as added by this section, is repealed effective for facilities placed in service after 2011.

B.3. Notwithstanding the general effective date of this act, this section takes effect upon approval of this act by the Governor and applies for facilities placed in service after 2006.

C.1. Section [12-28-110](#)(39) of the 1976 Code is amended to read:

"(39) 'Motor fuel' means gasoline, diesel fuel, renewable fuel, and blended fuel."

C.2. Section [12-28-110](#) of the 1976 Code is amended by adding at the end:

"(69) 'Biodiesel' means vegetable or animal based fuels used as a substitute for diesel fuel.

(70) 'Renewable fuel' means liquid nonpetroleum based fuels that can be placed in vehicle fuel tanks and used as a fuel in a highway vehicle. It includes all forms of fuel commonly or commercially known or sold as biodiesel and ethanol."

D. Section [12-28-990](#)(A) of the 1976 Code, as last amended by Act 69 of 2003, is further amended to read:

"(A) Each person blending materials on which the user fee has not been paid including blendstocks, additives, and renewable fuels with motor fuels subject to the user fee as to which the user fee has been paid or accrued shall remit the user fee imposed by this chapter."

E. Except where otherwise provided, this section takes effect upon approval by the Governor.

Tax credit for installation of solar energy heating or cooling system

SECTION 37.A. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

"Section [12-6-3587](#). (A) There is allowed as a tax credit against the income tax liability of a taxpayer imposed by this chapter an amount equal to twenty-five percent of the costs incurred by the taxpayer in the installation of a solar energy heating or cooling system, or both, in a building owned by the taxpayer. The tax credit allowed by this section must not be claimed before the completion of the installation, and must be claimed for the year that the costs are incurred. The amount of the credit may not exceed three thousand five hundred dollars or fifty percent of the taxpayer's tax liability for that taxable year, whichever is less. If the amount of the credit exceeds three thousand five hundred dollars, the taxpayer may carry forward the excess for up to ten years.

(B) 'System' includes all controls, tanks, pumps, heat exchangers, and other equipment used directly and exclusively for the conversion of solar energy for heating or cooling. The term 'system' does not include any land or structural elements of the building such as walls and roofs or other equipment ordinarily contained in the structure."

B. This section takes effect upon approval by the Governor and applies to installation costs incurred in taxable years beginning on or after January 1, 2006.

Tax credit for use of methane gas taken from a landfill

SECTION 38. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

"Section [12-6-3620](#). (A) For taxable years beginning after 2006, there is allowed a tax credit against the tax imposed pursuant to Section [12-6-530](#) for twenty-five percent of the costs incurred by a taxpayer for use of methane gas taken from a landfill to provide power for a manufacturing facility.

(B) The tax credit allowed by this section may not exceed fifty percent of the liability of the taxpayer for the tax imposed pursuant to Section [12-6-530](#). Unused credits may be carried forward for ten years.

(C) For purposes of this section, manufacturing facility is as defined in Section [12-6-3360\(M\)\(5\)](#)."

Boat taxed as a residence

SECTION 39.A. Section [12-37-224](#) of the 1976 Code, as added by Act 114 of 1999, is amended to read:

"Section [12-37-224](#). A motor home on which the interest portion of indebtedness is deductible pursuant to the Internal Revenue Code as an interest expense on a qualified primary or second residence is also a primary or second residence for purposes of ad valorem property taxation in this State and is considered real property rather than

personal property for property tax purposes. By ordinance, the governing body of a county may extend the provisions of this section to a boat that meets the same qualifications required for motor homes pursuant to this section."

B. Article 5, Chapter 37, Title 12 of the 1976 Code is amended by adding:

"Section [12-37-712](#). In addition to any other provisions of law subjecting boats and boat motors to property tax in this State:

(1) A boat, including its motor if separately taxed, used in interstate commerce having a tax situs in this State and at least one other state is subject to property tax in this State. The value of such a boat must be determined based on the fair market value of the boat multiplied by a fraction representing the number of days present in this State. The fraction is determined by dividing the number of days the boat was present in this State by three hundred and sixty-five days. A boat used in interstate commerce must be physically present in this State for thirty days in the aggregate in a property tax year to become subject to ad valorem taxation.

(2) A boat, including its motor if the motor is separately taxed, which is not currently taxed in this State and is not used exclusively in interstate commerce, is subject to property tax in this State if it is present within this State for sixty consecutive days or on ninety days in the aggregate in a property tax year. Upon written request by a tax official, the owner must provide documentation or logs relating to the whereabouts of the boat in question. Failure to produce requested documents creates a rebuttable presumption that the boat in question is taxable within this State."

C. This section takes effect upon approval by the Governor and applies for property tax years beginning after 2005.

Redevelopment fees

SECTION 40. Section [12-10-88](#)(B) of the 1976 Code is amended to read:

"(B) The department shall remit the redevelopment fees during the period described in subsection (C) for each calendar quarter for which the redevelopment authority provides the department with a timely statement from the federal employer that employs the employees working at the closed or realigned military installation setting forth the number of employees employed at the installation, the total wages paid to these employees, and the total amount of South Carolina withholding withheld from the employees for each quarter. In order to receive the redevelopment fees for the applicable quarter, the redevelopment authority shall submit the statement within thirty days of the later of the date that the federal employer's South Carolina withholding tax return is due or the date the federal employer files the withholding tax return. The department may extend the time for submission of the statement at its discretion."

General exemptions from taxes

SECTION 41. Section [12-37-220](#)(B)(45), as added by Act 69 of 2003, is amended to read:

"(45) a private passenger motor vehicle leased by a member of the armed forces of the United States stationed in this State when that service member's home of record is in another state and the leased vehicle is registered in South Carolina."