

South Carolina General Assembly
116th Session, 2005-2006

A161, R188, H3767

Introduced in the House on March 15, 2005
Introduced in the Senate on April 20, 2005
Last Amended on June 1, 2005
Passed by the General Assembly on June 1, 2005
Became law without Governor's signature, June 9, 2005
Summary: Tax returns

Computation of taxable income

SECTION 22. A. Section [12-6-1130](#) of the 1976 Code, as last amended by Act 363 of 2002, is further amended by adding an appropriately numbered item at the end to read:

"() (a) A deduction is not allowed a person for the accrual of an expense or interest if the payee is a related person and the payment is not made in the taxable year of accrual or before the payer's income tax return is due, without regard to extensions, for the taxable year of accrual. Except as provided in subitem (b), deductions disallowed pursuant to this section are allowed when the payment is made. The holder shall include the payment in income in the year the debtor is entitled to take the deduction. This section does not apply to payments deemed to be made by the application of South Carolina's adoption of Internal Revenue Code Section 482, 7872, a similar provision of the Internal Revenue Code or state law.

(b) Notwithstanding subitem (a), unless the director is satisfied that tax avoidance is not a significant purpose of the transaction, an interest deduction is not allowed for the accrual or payment of interest on obligations issued as a dividend or paid instead of paying a dividend. This interest must be treated as a dividend to the debtor's shareholders when it is paid, and if the holder of the obligation is not a shareholder at that time, a payment from the shareholders to the holder at that time.

(c) For purposes of this item, a related person includes a person that bears a relationship to the taxpayer as described in Section 267 of the Internal Revenue Code."

B. This SECTION takes effect upon approval by the Governor and applies to taxable years beginning after 2005.

[Link to full text of H.B. 3767](#)

http://www.scstatehouse.net/sess116_2005-2006/bills/3767.htm