

Summary – [Act 176 of 2020 \(H.4431\)](#) – South Carolina Business License Tax (BLT) Standardization Act

1. **Does not change current state law exemptions/special provisions:** Section 6-1-400(A)(1) requires counties and municipalities which levy a business license tax to comply with this act unless another state law specifically provides for how business license taxes are levied. Under current state law, several exemptions or special provisions are provided for certain categories of business, such as common motor carriers, banks, and telecommunication providers.
2. **Creates uniform definition of gross income with specific definitions for manufacturers and certain other types of businesses:** Act 176 does not change how cities/counties calculate the BLT using gross income, but Section 6-1-400(E) does clarify and standardize the definition of gross income that all cities and counties must use and includes specific definitions for certain industries or professions, including manufacturers, real estate brokers, insurance companies and telecommunications companies.
3. **Exempts wholesalers from having to pay the tax unless they maintain warehouses or distribution establishments within the city/county:** Section 6-1-400(C) specifies that a wholesale transaction involves a sale to an individual who will resell the goods and includes delivery of the goods to the reseller. It does not include a sale of goods to a user or consumer.
4. **Provides for uniformity in filing dates, application, class schedules and payment processing:**
 - a. 12 month filing period begins May 1 and ends April 30. Penalties may be imposed for taxes not paid before May 1, except that an admitted insurance company may pay before June first without penalty. [Section 6-1-400(B)(1)]
 - b. First-time filers must pay a BLT based on probable gross income for the balance of the license year. [Section 6-1-400(B)(2)]
 - c. Cities and counties must accept the standard application form established and provided by the Director of the Revenue and Fiscal Affairs Office (RFA). [Section 6-1-400(F)]
 - d. Taxing jurisdictions shall adopt the new class schedule recommended by the Municipal Association of South Carolina (MASC) and adopted by the RFA. MASC must revise the class schedules using the latest nationwide IRS statistics for the calculation of profitability of businesses and the NAICS. Local governments may adopt reasonable subclassifications for specific purposes. [Section 6-1-400(G)(1) and (G)(2)]
 - e. The RFA shall contract for and manage a central portal system to allow payment of BLT. Audits are only allowed by local governments and data obtained through the portal may not be used by anyone other than the taxing jurisdictions for statewide analytics. [Section 6-1-400(J)(1)]
5. **Allows counties and municipalities to continue to set rates:** Section 6-1-400(G) requires a city/county to establish a business license rate schedule based on current BLT revenue collections adjusted for inflation and allows the city/county to adjust rates by majority vote.
6. **Does not affect existing special ordinances, informal, or formal agreements:** Section 6-1-400(H) provides that existing special ordinances, informal or formal agreements regarding BLTs between a city/county and a business remain in effect and are considered valid.
7. **Creates a uniform appeals process:** Section 6-1-410 sets forth a process for taxpayers to appeal a BLT assessment giving the taxpayer reasonable notice to appeal and the city/county reasonable time to respond. The process requires an informal conference, then an appeal to the city/county governing body, then to the Admin Law Court.

8. **Provides for taxpayer data confidentiality:** Section 6-1-420(E) provides that a city or county may not share or disclose any information relating to business license tax applications with any third party other than to acknowledge whether or not a business has paid the taxing jurisdiction's business license tax for a relevant year.
9. **Third party tax collectors and contingency fees:** Section 6-1-420(A) allows a taxing jurisdiction to contract by ordinance with a third party vendor to assist the taxing jurisdiction in collecting business license taxes. However, a business can request in writing that the vendor cease communication with the business. The third party is also prohibited from retaining a business's confidential and proprietary information. Section 6-1-420(D) provides limitations for how a city/county can pay a third party for tax collection services. Contingency fees are allowed for services to collect delinquent business license taxes after the business receives a proposed assessment and fails to appeal it in a timely manner or the appeal is adjudicated. Contingency fee contracts are not allowed for a third party's work to assist the city/county with tax collection before the tax is considered delinquent.
10. **Limits third party entity's ability to harass businesses:** Section 6-1-420(F) specifies that third party tax auditors may not utilize harassing tactics including:
 - a. contacting a business in any capacity after the business informs the third party entity in writing to cease communication;
 - b. stating that a business is required to provide any information to the third party entity; or
 - c. contacting the business in a manner that the third party entity knows or should know creates any meaningful business interruption.A business has a private right of action against a third party who engages in this conduct.
11. **Effective Dates:** All sections of this bill, except Section 6-1-420, take effect on January 1, 2022. Section 6-1-420 (relating to third parties) took effect upon signature of the Governor (September 30, 2020).