
State of South Carolina
Department of Revenue
301 Gervais Street, P. O. Box 125, Columbia, South Carolina 29214

SC INFORMATION LETTER #97-5
(Administrative Pronouncement)

SUBJECT: Credit for Employers Hiring Former AFDC Recipient
(Income Tax)

DATE: February 12, 1997

SUPERSEDES: All previous documents and any oral directives in conflict herewith.

REFERENCE: S. C. Code Ann. Section 12-6-3470 (Supp. 1996)

AUTHORITY: S.C. Code Ann. Section 12-4-320 (Supp. 1996)
SC Revenue Procedure #94-1

SCOPE: An Information Letter is a document issued for the purpose of disseminating general information or information concerning an administrative pronouncement.

Information Letters issued to disseminate general information have no precedential value and do not represent the official position of the Department. Information Letters designated as administrative pronouncements are official advisory opinions of the Department.

Code Section 12-6-3470 allows a credit against income tax for an employer who hires a person who received aid to families with dependent children (“AFDC”) assistance for three months prior to becoming employed. The South Carolina Rural Development Act of 1996 (Act. No. 462)(“Rural Development Act”) amended Code Section 12-6-3470 by adding a new subsection (D) to read as follows:

The Department of Social Services and the South Carolina Employment Security Commission must make information available to employers interested in hiring AFDC recipients and must provide documentation to employers verifying a person’s status as an AFDC recipient. An employer shall request documentation as to AFDC eligibility from the South Carolina Employment Security Commission in writing within five days of employment [emphasis added]. The commission has sixty days in which to either issue or deny the documentation.

In many instances, statutory provisions as to the precise time when a thing is to be done are not of the essence, but are merely directory. This is especially true when a statute fixes a time simply for convenience or orderly procedure. 73 Am. Jur. 2d Statutes '18. See also, Manji v. Blackwell, Op. No. 2524 (S.C. Ct. App. June 17, 1996). In this instance, the five day period provided for in the statute is merely to insure an orderly method of confirming the status of the employee.

Amended Code Section 12-6-3470 is effective for tax years beginning after 1995. The Rural Development Act was not finalized until July 2, 1996. To require that taxpayers who hired employees in the period from January 1, 1996 to June 26, 1996 to submit to the requirement that they verify employment within five days of the date of the employee's hire would result in a legal impossibility. Additionally, because this change to Code Section 12-6-3470 was not widely publicized, many employers were not aware that they should request information concerning an employee's AFDC eligibility within such a short time period.

Accordingly, the Department of Revenue and the Department of Social Services have agreed to waive the five day notification requirement for employers who hire former AFDC recipients from January 1, 1996 through March 26, 1997. They will have until March 31, 1997 to request verification of an employee's AFDC eligibility and possible qualification under the statute. Any employer who hires a former AFDC recipient after March 26, 1997 should submit the documentation required by the statute within five days of the date of the employment of the former AFDC recipient.

While Code Section 12-6-3470 specifically requires that the employer request this information from the Employment Security Commission, the Department of Social Services, the Department of Revenue and the Employment Security Commission have entered into an agreement whereby the Department of Social Services will serve as agent for the Employment Security Commission for handling all requests for confirmation as to the employee's status as a former AFDC recipient. Therefore, all requests for verification of an employee's status should be submitted to the Department of Social Services' office located in the county of the employee's residence. Such requests should be submitted via the South Carolina Department of Social Services' Verification of Receipt of Family Independence (AFDC) Benefits form, DSS-12108 (September 96). A copy of the DSS-12108 is attached to this information letter and may be duplicated for your use.