
State of South Carolina
Department of Revenue
301 Gervais Street, P. O. Box 12265, Columbia, South Carolina 29211
Website Address: <http://www.sctax.org>

SC REVENUE PROCEDURE #06-1

SUBJECT: Payment in Immediately Available Funds

EFFECTIVE DATE: June 21, 2006

SUPERSEDES: SC Revenue Ruling #91-5 and all previous advisory opinions and any oral directives in conflict herewith.

REFERENCES: S. C. Code Ann. Section 12-54-250 (2000, Supp. 2005)
S. C. Code Ann. Section 12-8-1520(D) (Supp. 2005)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (2000)
S. C. Code Ann. Section 1-23-10(4) (Supp. 2005)
SC Revenue Procedure #05-2

SCOPE: The purpose of a Revenue Procedure is to provide procedural guidance to the public and Department personnel. It is an advisory opinion issued to assist in the administration of laws and regulations by providing guidance that may be followed in order to comply with the law. It is effective until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion.

INTRODUCTION

Code Section 12-54-250 states that the Department may require any person owing fifteen thousand dollars or more in connection with any return, report, or other document to pay the tax liability in funds which are available immediately to the State. In addition, Code Section 12-8-1520(D) requires a withholding agent making at least twenty-four payments in a year to make such payments in funds which are available immediately to the State.

TAXPAYERS REQUIRED TO PAY IN IMMEDIATELY AVAILABLE FUNDS

Taxpayers with a tax liability of \$15,000 or greater for any filing period during the previous 12 months for any one of the "designated taxes," and taxpayers making at least 24 withholding payments in a 12 month period, will be required to make payments in "immediately available funds," as that term is defined in this Revenue Procedure. The provisions of this revenue procedure will also apply to any other taxpayers required by law to make tax payments in funds which are available immediately to the State.

The “designated taxes” are those taxes where electronic means are available or required for payment. All electronic payment (and filing) programs are outlined on the Department’s website (www.sctax.org). Additional tax types may be added in the future. The Department will notify taxpayers when they are required to begin making payments in immediately available funds. New qualifying taxpayers will be notified at least annually by the Department. Taxpayers are not required to pay any taxes in immediately available funds until notified by the Department.

Each qualifying taxpayer will receive notification from the Department identifying the available programs and placing them on notice that they are required to pay in this manner. The notification will also contain a contact number for taxpayers who may have questions concerning the available programs.

If more than one tax liability is reported on a single return, taxpayers are required to pay by this method for all taxes on that return even if only one of the taxes is a “designated tax” meeting the requirements for payment in funds which are available immediately to the State.

Government agencies currently making tax payments through Interdepartmental Transfers are exempt from this requirement.

Note: Any taxpayer who is not required to make payments in immediately available funds, but wishes to do so, may voluntarily participate. Information concerning electronic programs is available on the Department’s website (www.sctax.org).

DEFINITION OF "IMMEDIATELY AVAILABLE FUNDS"

The Department has defined "immediately available funds" to be payments paid in cash or by available electronic means as described below:

Cash:

In order for cash to be an acceptable form of payment the following conditions must be met:

1. The cash must be delivered to the main office (301 Gervais Street, Columbia, SC) of the South Carolina Department of Revenue before 5 p.m. on the due date of the payment.
2. Cash is defined as money or currency issued by the United States of America intended to pass and circulate as such. It does not include cashier's checks, money orders, or personal checks.
3. The taxpayer must select cash as a payment method as discussed below.

Note: IRC Section 6050I requires any person in a trade or business who, in the course of the trade or business, receives more than \$10,000 in cash in one or more related transactions to report it on an information form (Form 8300) with the IRS within 15 days. Information reported on this return includes the name, address and taxpayer identification number of the payor; the name, address and taxpayer identification number of the person for whom the transaction was conducted if the recipient knew or had reason to know that the payor was an agent for another; the amount of cash received; the date and nature of the transaction; and all other information requested by Form 8300. Taxpayers should be aware that this information will be reported if the payment falls under the requirements of IRC Section 6050I.

Available Electronic Means:

Payment by available electronic means is limited to the following methods authorized by the Department:

Credit card: The Department accepts payment by credit card for some taxes which allows the taxpayer to receive an authorization code to acknowledge successful processing of the credit card payment. Information as to the types of credit cards that may be used to make a tax payment can be found on the Department's website (www.sctax.org). There is no additional cost to submit payment by credit card.

Electronic Funds Transfer (EFT): The Department has designated two methods of electronic funds transfers from which taxpayers may choose, both of which are offered through the Automated Clearing House (ACH).

1. The first option, the Automated Clearing House Debit, allows the taxpayer to authorize the State to electronically transfer tax payments from the taxpayer's depository into the State's account. (This method may be referred to as "Electronic Funds Withdrawal (EFW)" on some programs.) The cost of this option is charged to the State.
2. The second option, the Automated Clearing House Credit, involves the taxpayer instructing a depository or currency management provider to transfer the funds to the State at such time to assure the State's receipt of the funds by the due date. The cost of this option is charged to the taxpayer.

Note: A third form of electronic funds transfer, Federal Wire transfers (FEDWIRE), will be an acceptable payment method if the ACH Credit or ACH Debit transactions fail (for example, if there is a problem transmitting the information to the clearinghouse or if the computer lines are down for some reason). The taxpayer must first contact the Electronic Services Helpdesk by calling 1-(800) 476-0311 or (803) 898-5740 before proceeding with a wire transfer.

Other Methods: The Department may authorize other methods of payments in immediately available funds as it deems necessary.

SELECTION OF PAYMENT METHOD

The taxpayer must select a payment method after choosing one of the programs as outlined in the notification provided for taxpayers required to pay in immediately available funds. If a taxpayer is required to make payments in immediately available funds, the taxpayer must continue to make payments in one of the defined forms of immediately available funds for one year.

WITHDRAWAL

If a taxpayer making payments of a particular tax liability in immediately available funds has not surpassed the \$15,000 threshold with respect to that tax in 12 consecutive months, the taxpayer may withdraw from the program with respect to that tax. Such request must be made in writing and sent to the following address:

South Carolina Department of Revenue
Electronic Services Helpdesk
P.O. Box 125
Columbia, South Carolina 29214

PENALTIES

Failure to make timely payment in immediately available funds subjects the taxpayer to penalties and interest as provided by law for delinquent or deficient tax payments, including, but not limited to, failure to file penalties, failure to pay penalties, and revocation of licenses. For more information on penalties or interest, see Chapter 54 of Title 12 of the South Carolina Code of Laws.

Payment in immediately available funds and the filing of the return are considered simultaneous events with respect to computing penalties and interest for failure to file and failure to pay. Therefore, the failure to file and the failure to pay penalties will be calculated based on the later of the return postmark date or the payment date, unless the extension provisions of Code Section 12-54-70 apply.

If a taxpayer that is required to have payments made in immediately available funds properly files an extension in accordance with Code Section 12-54-70, the failure to file penalty will apply if the extended return is not timely filed by the extended due date. In addition, any tax liability payment, or portion of such payment, which is not timely paid in accordance with Code Section 12-54-70 will be subject to the failure to pay penalty for the period of time for which it remains unpaid.

ADDITIONAL INFORMATION

For additional information concerning payments in immediately available funds, contact the Department at South Carolina Department of Revenue, Electronic Services Helpdesk, P.O. Box 125, Columbia, South Carolina 29214, or by calling 1-(800) 476-0311 or 898-5740 (within the Columbia area). In addition, information may also be found on the Department's website at www.sctax.org.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Ray N. Stevens

Ray N. Stevens, Director

June 21, 2006
Columbia, South Carolina