
State of South Carolina
Department of Revenue
300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 125, Columbia, South Carolina 29214

SC REVENUE PROCEDURE #14-1

SUBJECT: Income Tax Extensions

EFFECTIVE DATE: Applies to all periods open under the statute.

SUPERSEDES: SC Revenue Procedure #93-2

REFERENCES: S. C. Code Section 12-54-70 (Supp. 2012)
S. C. Code Section 12-6-4980 (Supp. 2012)
S. C. Code Section 12-4-320(6) (2000)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (2000)
S. C. Code Ann. Section 1-23-10(4) (Supp. 2012)
SC Revenue Procedure #09-3

SCOPE: The purpose of a Revenue Procedure is to provide procedural guidance to the public. 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 It is effective until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion.

LAW

Code Section 12-54-70 provides for an extension of time for filing returns and paying tax. Code Section 12-6-4980 contains specific rules and procedures for a taxpayer to request, and the Department to accept, extensions of time to file income tax returns pursuant to Chapter 6 of Title 12, the South Carolina Income Tax Act. Code Section 12-4-320 provides additional authority to the Department, in certain circumstances, to grant additional time to file returns.

Code Section 12-54-70, reads in part:

(a) The department may allow further time for the filing of returns or remitting of tax due required by the provisions of law administered by the department. The request for an extension must be filed with the department on or before the day the return of the tax is due. Except as otherwise provided in this section, the department may allow an extension of time not to exceed six months. A tentative return is required reflecting one hundred percent of the anticipated tax to be paid for the taxable period, to be accompanied by a remittance for the tentative tax liability. Interest at the rate provided in Section 12-54-25, calculated from the date the tax was originally due, must be added to the balance due whenever an extension to file or to remit tax due is granted.

(b) If the amount remitted with the tentative return fails to reflect at least ninety percent of the tax to be paid for the period granted by the extension, a penalty as provided in Section 12-54-43(D) must be imposed from the date the tax was originally due on the difference between the amount remitted and the tax to be paid for the period.

(c) Provisions regarding prepayment of ninety percent of the estimated liability do not apply to persons filing monthly reports. For monthly filers, no extension may be granted for more than one additional month beyond the due date. The time and payment requirements of this section do not apply for estate tax purposes if a hardship extension is granted under Section 12-16-1140; but interest must be calculated on any outstanding amount until completely paid.

(d) An extension may not be granted to a taxpayer who has been granted an extension for a previous period and has not fulfilled the requirements of the previous period.

More specifically, Code Section 12-6-4980 provides the rules for extensions of time to file income tax returns and reads:

(A) The department may allow an extension of time not to exceed six months for filing returns under this chapter or the annual report under Chapter 20 of this title. A taxpayer requesting an extension of time for filing, on or before the date the return or annual report is due, shall submit a tentative return and pay the full amount of the tax and license fee due.

(B) When a taxpayer is not required to make a payment of tax at the time of the extension, and the taxpayer has been granted an extension of time to file a federal income tax return, the taxpayer is not required to apply to the department for an extension of time to file the South Carolina return. The department shall accept a copy, if applicable, of a properly filed federal extension attached to the South Carolina return when filed. Taxes shown to be due on a return required pursuant to this chapter must be paid at the time the return is due to be filed, without regard to an extension of time granted for filing the return.

(C) An extension must not be granted to a taxpayer who has been granted an extension for a previous period and has not fulfilled the requirements of the previous period.

Further, Code Section 12-4-320(6) provides:

The department may for damage caused by war, terrorist act, or natural disaster or service with the United States armed forces or national guard in or near a hazard duty zone, extend the date for filing returns, payments of taxes, collection of taxes, and conducting audits, and waive interest and penalties.

PROCEDURE

The purpose of this advisory opinion is to update and clarify the procedure for filing of extensions of time to file returns under Chapter 6 of Title 12 (the Income Tax Act)¹ whether by paper or electronic means. The types of extensions addressed include those filed by an individual, partnership, fiduciary, corporation, and other business entity, such as a bank or savings and loan. Note: For simplicity, returns are referred to as “income” tax returns, although some are technically “information” returns or “franchise” tax returns.

This Question and Answer procedure is divided into 3 parts:

- I. General Rules: Extension Period, Automatic Extension, Invalid Extension, and Right to Terminate Extension
- II. Filing Rules: Extension Forms, Completion, and Remittance
- III. Special Rules: Extensions for “Consolidated” Returns or “Composite” Returns

Part I - GENERAL RULES: Extension Period, Automatic Extension, Invalid Extension, and Right to Terminate Extension

Question 1 – Initial Request

Q. What is the time period an income tax return can be extended?

A. The time period the Department will grant to extend the time for filing an income return depends upon the type of tax return to be filed, but is usually 5 months or 6 months.

Automatic 5-Month Extension: The Department will grant an automatic **5 month** extension of time to file the following returns:

Partnership Return – SC 1065
Estate Return – SC 1041
Trust Return – SC 1041

Automatic 6-Month Extension: The Department will grant an automatic **6 month** extension of time to file the following returns:

Individual income tax return – SC 1040
Composite Individual income tax return – SC 1040 “Modified”
Corporate return – SC 1120, SC 1120S, SC 1120U (public utility)
Other business tax return – SC 1120B (bank), SC 1104 (savings and loan)

¹SC Code §§12-11-40 (tax on banks) and 12-13-60 (tax on savings and loans) provide that for purposes of administration, all of the provisions of Chapter 6 of Title 12 that are appropriate are adopted as part of Chapters 11 and 13 of Title 12.

Question 2 – Federal Extension Accepted

Q. Does South Carolina accept a federal extension?

A. If the taxpayer files an extension with the Internal Revenue Service, then the Department accepts the federal extension and will grant an automatic extension of time to file the South Carolina return for the same length of time allowed by the Internal Revenue Service. In such instance, a separate South Carolina extension needs to be filed only if the taxpayer is required to make a South Carolina tax payment with the extension.

Question 3 – Extension Filed in Another State

Q. Does South Carolina accept an extension of time filed in another state?

A. No. An extension of time filed in another state does not extend a taxpayer's South Carolina tax return.

Question 4 – Invalid Extension if Prior Year Unfiled

Q. Can a current year return be extended if a prior year return has not been filed?

A. No. If a taxpayer has not fulfilled the filing requirements for a previous period, the Department cannot grant an extension. The return will be delinquent if it is not filed by the original due date. The Department will not send notice of the invalid extension.

Question 5 – Approval of Extension

Q. Is the taxpayer notified of approval of an extension of time to file?

A. For automatic extensions of time, the Department will not send notice of a valid extension.

Question 6 – Termination of Extension

Q. Can the Department terminate an extension?

A. Yes. The Department retains the right to terminate any extension, including automatic extensions, by mailing a notice of termination to the person or entity that requested the extension. The notice will be mailed at least 10 days before the termination date given in the notice. A 10-day notice of termination is not given if a taxpayer has not fulfilled requirements for a previous period (see Question 4).

Question 7 – Special Extensions Granted by the Department or Additional Requests

Q. Are additional extensions of time beyond the automatic extension period allowed?

A. An extension period beyond the automatic 5-month or 6-month extension time listed in Question 1 will not be granted except in unusual circumstances or unless a federal extension has been granted beyond the automatic period.

For example, when certain individual taxpayers who are out of the country qualify for an additional 2 month federal extension, the Department will grant an automatic extension for the same length of time allowed by the federal extension; no additional extension request needs to be filed with the Department.

In past years unusual circumstances that have warranted an automatic additional extension of time to file have included natural disasters or war. These unusual circumstances do not require affected taxpayers to file a request for an additional extension of time. Each special circumstance and the automatic extension period allowed will be published on the Department's website, www.sctax.org, or can be found by calling the Department at 803-898-5709.

If a taxpayer thinks that his circumstances warrant an additional extension, he may apply to the Department; however, if the additional extension is not affirmatively granted, his return will be considered to be filed late if it is not filed within the automatic extension period. If the taxpayer does not receive a reply to his request, he should call the Department at 803-898-5709.

Part II – FILING RULES: Extension Forms, Completion And Remittance

Question 8 – Extension Forms

Q. What are South Carolina's income tax extension forms?

A. South Carolina's income tax extension forms are:

SC 1120-T - "Application for Automatic Extension of Time to File Corporation Tax Return"

SC 4868 - "Request for Extension of Time to File SC Individual Income Tax Return"

SC 8736 - "Request for Extension of Time to File SC Return for Fiduciary and Partnership"

Note: See Question 2 regarding South Carolina's acceptance of a federal extension filed with the Internal Revenue Service.

Question 9 – Filing Methods

Q. How is a South Carolina extension of time requested?

A. An income tax extension of time can be filed either by paper or electronic means. The form used to request the extension is the same whether it is a paper extension or an extension submitted electronically.

Question 10 – Due Date

Q. When is the extension due?

A. A request for an extension of time must be filed with the Department (or the Internal Revenue Service) by the original due date of the return. The due date of the return can be found in the South Carolina Code of Laws or the instructions for the appropriate return.

Question 11 – Signature Not Required

Q. Is an extension required to be signed?

A. No. An extension is not required to be signed.

Question 12 – Attachment of Extension to Return

Q. Does an extension (whether requested by paper or electronic means) have to be attached to the tax return when filed (whether by paper or electronic means)?

A. No. A copy of a South Carolina extension form or a copy of the federal extension form does **not** need to be attached to the South Carolina paper or electronic return when filed.

Question 13 – Check box on Return

Q. How does a taxpayer indicate on the return that an extension was filed?

A. When the return is filed, the taxpayer should check the box on the South Carolina tax return which indicates an extension was filed.

Question 14 – Tax Payments

Q. How can a tax payment be made with the extension?

A. A payment due with an extension can be remitted to the Department by paper check, credit card, or electronic means. A payment by check is attached to the extension.

Question 15 – Unable to Pay

Q. Can an extension be filed even if the payment amount cannot be made with the extension?

A. An extension of time for filing does not extend the time for paying the tax or license fee due. To avoid late filing penalties, however, a taxpayer unable to file the return on or before the original due date should file an extension of time to avoid late filing penalties. Late payment penalties and interest may apply on any tax not paid by the original due date.

Part III - SPECIAL RULES: Extensions for “Consolidated” Returns or “Composite” Returns

Question 16 – “Consolidated” Corporate Return

Q. How is a South Carolina “consolidated” corporate income tax return extended?

A. To extend a South Carolina “consolidated” (combined) corporate income tax return, only one Form SC 1120-T is required to be filed. This extension can be submitted to the Department by paper or electronic means. One payment, if any, can be made to remit the income taxes and license fees of the consolidated group by paper check, credit card, or electronic means. A list with the name, address, and federal identification number for each member to be included in the South Carolina consolidated return is not required to be attached to the extension.

Note: A federal extension will be accepted providing all corporations in the consolidated group required to file a return with South Carolina have filed a federal extension, or are included in a federal extension, and no South Carolina tax payment is required with the extension.

Question 17 – Composite Individual Income Tax Return

Q. How is a South Carolina “composite”² income tax return extended?

A. A “composite” individual income tax return is extended by the pass through entity by filing one “modified” Form SC 4868, “Request for Extension of Time to File South Carolina Tax Return” (the same form as an individual taxpayer). This extension can be submitted to the Department by paper or electronic means. One payment, if any payment is due, can be made to remit taxes due by all participants by a paper check, credit card, or electronic means. A list with the name, address, and social security number or federal identification number of each participant³ to be included in the South Carolina composite return is not required to be attached to the extension.

Note: Federal extensions filed by participants in the composite return are accepted by the Department providing all individuals participating in the composite return have submitted a federal extension of time, and no South Carolina tax payment is required with the extension.

²A “composite” return is a “modified” individual income tax return (SC 1040) filed by an S Corporation, partnership, or limited liability company taxed as an S corporation or partnership on behalf of two or more of its nonresident shareholders, partners, or members where each qualifying participant’s South Carolina individual income and South Carolina income tax is computed separately, each individual’s income tax is combined with all other individual participants and then the total tax of all individual participants is reported on one SC 1040.

³A participant in a composite return can be an individual, trust or estate in which the income is taxed to the trust or estate. A corporate taxpayer cannot participate in a composite return.

To complete the extension, the blocks on Form SC 4868 (the same form used by an individual taxpayer) must be “modified” and completed by the pass through entity as indicated below:

In the block on Form SC 4868 that reads...	The pass through entity...
“Your Name”	Enters the name of the pass through entity
“Your social security number/FEIN”	Enters the federal identification number of the pass through entity; a participating individual’s social security number is not entered
“Home Address”	Enters the address of the pass through entity
“Composite Filer, check here”	Fills in the circle provided on the form to indicate that the extension request is to extend a composite SC 1040.

Caution: A “composite” return is not extended by means of a partnership extension, Form SC 8736, “Request for Extension of Time to File South Carolina Return for Fiduciary and Partnership,” or an S corporation extension, Form SC 1120-T, “Tentative Corporation Tax Return and Conditional Extension.” Further, use of Form SC 4868 to extend the composite return for individuals does not extend the pass through business return (*i.e.*, Form SC 1065 or Form SC 1102S.)

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/William M. Blume, Jr.

William M Blume, Jr., Director

April 17 _____, 2014
Columbia, South Carolina