
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 #14-3

SUBJECT: Certificate of Compliance
(All Taxes)

EFFECTIVE DATE: August 1, 2014

SUPERSEDES: SC Revenue Procedure #03-5 and all previous documents and any oral directives in conflict herewith

REFERENCES: S. C. Code Ann. Section 12-54-124 (2014)
S. C. Code Ann. Section 12-4-388 (2014)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (2014)
S. C. Code Ann. Section 1-23-10(4) (2005)
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 It is effective until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion.

BACKGROUND

There are a number of situations which may require that a taxpayer obtain confirmation that all tax returns and taxes administered by the South Carolina Department of Revenue (“Department”) have been filed and paid. A certificate of compliance obtained from the Department is prima facie evidence that a return has been filed, a tax has been paid, or that information has been provided as required. Requests for a certificate of compliance are often made by parties applying for a bank loan, issuing stock, purchasing stock or assets of a business, or contracting to perform work in South Carolina. Additionally, obtaining a certificate of compliance will usually relieve a purchaser of the stock or assets of a business from liability for such taxes incurred by the business and the previous owner of the business prior to the purchase. See S.C. Code Section 12-54-124. A certificate of compliance will indicate whether the taxpayer owes the Department any returns or taxes based on the information available. It will not include whether a taxpayer has been selected for audit, is currently under audit, is currently in appeals or litigation with the Department, or has been issued a proposed notice of assessment.

PROCEDURE FOR REQUESTING A CERTIFICATE OF COMPLIANCE

WHO MAY REQUEST A CERTIFICATE OF COMPLIANCE

A request for a certificate of compliance may be made by (1) a taxpayer or (2) a third party. Requests from a third party must be accompanied by a Power of Attorney from the taxpayer authorizing the third party to request the certificate of compliance. A taxpayer will generally use a Power of Attorney form, South Carolina or Internal Revenue Service Form 2848, to provide the authorization. The Form SC2848 is available on the Department's website.

HOW TO REQUEST A CERTIFICATE OF COMPLIANCE

Each request for a certificate of compliance must be in writing. Oral requests will not be accepted. South Carolina Form C-268 "Certificate of Tax Compliance Request Form" must be used to request the certificate of compliance. Form C-268 is available on the Department's website.

Form C-268 may be sent to the Department by email, mail, fax, hand-delivery, or any other method approved by the Department. Currently, there is a \$60 processing fee for requesting a certificate of compliance. S.C. Code Section 12-4-388.

Information about the requirements for delivering the Form C-268 is contained in the instructions to the Form C-268 and will include the email address, fax number and street address where the request for the certificate of compliance should be sent. Any revisions to the process will be published on the Department's website or in the instructions to the Form C-268.

ISSUANCE OF A RESPONSE

Requests are usually reviewed in the order received. Once received, the Department will gather all necessary information and determine whether the taxpayer owes the Department any returns or taxes based on the information available and will request and obtain any additional information it deems necessary to complete the request.

If additional information is necessary, the taxpayer, or the third party requestor listed on the Power of Attorney if appropriate, will be informed that if the additional information is not provided within 30 days, the request may be considered withdrawn. If the additional information is provided after the request is withdrawn, the Department may require a new request and a new \$60 processing fee.

Once a review of the taxpayer's records has been completed, the Department will issue the certificate of compliance if it determines that the taxpayer has no returns or taxes due. The certificate of compliance will be sent to the taxpayer and the third party requestor listed on the Power of Attorney, if appropriate.

If the Department determines that: (1) the taxpayer has not filed all returns and paid all taxes for the years or periods reviewed, (2) the taxpayer identified in the request cannot be located in the Department's files, (3) incorrect or insufficient information has been received on Form C-268, or (4) other similar reasons exist, then the taxpayer or the third party requestor listed on the Power of Attorney will be contacted by the Department. In the case of any non-compliance, the taxpayer will then be given 30 days to file any returns or remit any taxes due, as applicable. If the taxpayer remedies the noncompliance, a certificate of compliance will be issued.

The certificate of compliance will be sent to the taxpayer and a copy may also be provided to a third party requestor if the Power of Attorney so provides. On Form C-268, the taxpayer or the third party requestor, if applicable, may designate whether the Department should send the certificate of compliance by United States mail, email or fax. The certificate of compliance may also be picked up from the Department's main office. All appropriate security measures required by law or Department policy will be adhered to in e-mailing, mailing, faxing or delivering the certificate of compliance.

For questions concerning certificates of compliance, contact the Department at (803) 898-5381.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Rick Reames III

Rick Reames III, Director

October 9, 2014
Columbia, South Carolina