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SC REVENUE PROCEDURE 90-3

SUBJECT: Electronic Funds Transfers

TAX ANALYST: Jean P. Croft

EFFECTIVE DATE: January 1, 1991

REFERENCE: S.C. Code Ann. Section 12-54-250 (As Added June 13, 1990)

AUTHORITY: S.C. Code Ann. Section 12-3-130 (1976)
SC Revenue Procedure #87-3

SCOPE: A Revenue Procedure is a statement describing agency procedures and is applicable only to employees of the South Carolina Tax Commission.

PURPOSE: To provide guidelines under Code Section 12-54-250 for the payment of a tax in funds that are immediately available to the State.

Section 12-54-250 (enacted June 13, 1990) states that the Commission may require any person owing twenty 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.

Taxpayers Required to File in Immediately Available Funds

To enforce this statute, the Commission has stated that, effective January 1, 1991, taxpayers with a liability of \$20,000 or more during a filing period for any of the following tax types are required to make payments in "immediately available funds", as such term is defined in this Revenue Procedure:

<u>Tax Type</u>	<u>Tax Type Code*</u>
Admissions Tax	10901
Alcoholic Case Additional Tax	11005
Alcoholic Case Retail Tax	11004
Alcoholic Case Wholesale Tax	11003
Alcoholic Liquor Excise Tax	11001

<u>Tax Type</u>	<u>Tax Type Code*</u>
Alcoholic Liquor Surtax	11007
Beer Excise Tax	11202
Bingo Tax	12550
Commercial Nuclear Waste Tax	11101
Electric Power Tax	11701
Gasoline Tax	32301
Indigent Care Tax	43105
Soft Drink Wholesale Tax	12005
Special Fuels Tax	32101
Tobacco Products Tax	11408
Wine Additional Tax	11301
Wine Excise Tax	11303

*The tax type code is a general ledger code currently printed on the forms used to report the tax liabilities for these tax types. Taxpayers required to file tax payments in immediately available funds must enter this number in the appropriate spaces on the forms used for these payments.

Taxpayers with a tax liability of \$20,000 or greater for any filing period during the previous 12 months for any one of the taxes listed above will be required to make payments of that tax by this method. New qualifying taxpayers will be identified every 6 months.

Taxpayers are not required to pay any taxes in immediately available funds until notified by the Tax Commission. Each qualifying taxpayer will receive a packet from the Tax Commission explaining the program and placing them on notice that they are required to pay in this manner. The packet will also contain the name of a coordinator who taxpayers may contact if they have questions concerning the paying procedure.

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 exceeds the \$20,000 limitation.

Government agencies currently making tax payments through Interdepartmental Transfers and seasonal filers are exempt from this program. Seasonal filers are taxpayers who conduct business in the State and are required to file and pay a tax liability only during certain seasonal months of the year, such as, summer or winter months.

Any taxpayer who is not required to make payments in immediately available funds, but wishes to do so, may voluntarily participate by completing the Registration Application and filing it with the Commission.

Definition of "Immediately Available Funds"

The Commission has defined "immediately available funds" to be payments filed by electronic funds transfer (EFT). The Commission has also designated two methods of electronic funds transfers from which taxpayers may choose, both of which are offered through the Automated Clearing House (ACH).

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. The second option, the Automated Clearing House Credit, involves the taxpayer instructing his 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 the first option is charged to the State, and the cost of the second is charged to the taxpayer. The taxpayer must select one of the payment methods by completing the Registration Application that will be provided for electronic funds transfer taxpayers.

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 EFT coordinator or his designate for approval to use this method by calling 1-(800) 476-0311 or 737-4619 (within the Columbia area).

Registration for Electronic Funds Transfer Program

Each taxpayer participating in the electronic funds transfer program, whether such participation is voluntary or compulsory, is required to complete a Registration form and file it with the EFT coordinator. On the Registration form the taxpayer will designate the method of electronic funds transfer and the name of a company contact person. If the debit method of transfer is chosen, the taxpayer must also give the bank name, its American Bank Association number, and the bank account number of the bank from which the funds are to be transferred.

After receiving this Registration form, the Commission will conduct a test (prenoting process) of the funds transfer. Upon successful completion of this procedure, the taxpayer will be notified of the date on which EFT payments are to begin, which geerally will be 90 days after notification of the requirement to pay by electronic funds transfer.

Withdrawal

If a taxpayer making payments of a particular tax liability by electronic funds transfer has not surpassed the \$20,000 threshold with respect to that tax in 12 consecutive months, he may withdraw from the EFT program. Such request must be made in writing and sent to the EFT coordinator.

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. Section 12-54-40 contains these penalties and states in part:

- (1) In the case of failure to file a return on or before the date prescribed by law, there must be added to the amount required to be shown as tax on the return a penalty of five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of the month during which the failure continues, not exceeding twenty-five percent...

(2)(a) In the case of failure to pay the amount shown as tax on any return on or before the date prescribed by law (determined with regard to any extension of time for paying), there must be added to the tax due a penalty of one-half of one percent of the amount of the tax if the failure is for not more than one month, with an additional one-half of one percent for each additional month or fraction of the month, during which the failure continues, not exceeding twenty-five percent in the aggregate.

Payment by electronic funds transfer and the filing of the return are considered simultaneous events with respect to computing penalties and interest for failure to file or failure to pay. 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.

Taxpayers may still file extensions pursuant to Section 12-54-70 for returns that are required to have payments made by electronic funds transfer. The failure to file penalty will apply if the extension or the extended return is not timely filed. Any tax liability payment or portion of such payment which is not timely paid will be subject to the failure to pay penalty for the period of time for which it remains unpaid.

Any questions or requests for further information concerning electronic funds transfers should be directed to EFT Coordinator, South Carolina Tax Commission, P.O. Box 125, Columbia, South Carolina 29214, 1-(800)476-0311 or 737-4619 (within the Columbia area).