



SC REVENUE PROCEDURE #93-2

SUBJECT: Income Tax Extensions

TAX ANALYST: Jean P. Croft

EFFECTIVE DATE: All periods open under statute.

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

REFERENCE: S.C. Code Ann. Section 12-54-70 (Supp. 1991)
S.C. Regulation 117-79

AUTHORITY: S.C. Code Ann. Section 12-4-320 (Supp. 1991)
S.C. 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 establish the procedures for extending the filing of income tax returns.

LAW AND REGULATIONS

S.C. Code Section 12-54-70 provides the general rule for extension of time to file returns. It states, in part:

(a) The Commission may, for good cause, allow further time for the filing of returns or remitting of tax due, required under the provisions of law administered by the Commission. The request for an extension may be granted only if the request is filed with the Commission on or before the day the return of the tax is due. . .

(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.

S.C. Reg. 117-79 provides more specific rules for the extension of time to file income tax returns. It states, in part:

An individual, fiduciary or partnership needing an extension of time for filing a South Carolina income tax return must attach an extension of time for filing properly approved by the Tax Commission prior to the due date of the return. A copy of a federal extension of time for filing may be attached in lieu of the extension granted by the Tax Commission.

A corporation shall be required to file a tentative return as provided for in Section 12-19-60 indicating the amount of tax and/or license estimated to be due and stating the reason for requesting an extension. . . (Emphasis added.)

PROCEDURE

I. IMPORTANT RULES APPLICABLE TO ALL EXTENSIONS

A. When Extension Cannot be Granted

If a taxpayer has not fulfilled the filing requirements for a previous period, the Tax Commission **cannot** grant any extension. Even if a taxpayer applies for an extension and receives an affirmative response from the Commission, the extension is void. The return will be delinquent if it is not filed by the original required due date.

B. Right to Terminate

The Commission retains the right to terminate any extension, including automatic extensions, by mailing a notice of termination to the taxpayer or to the person who requested the extension. The notice will be mailed at least 10 days before the termination date given in the notice. If a request for extension falls under subheading A. above, no 10-day notice as provided in this section will be given, and the taxpayer must file the return by its original due date.

C. Where to File

Extension requests should be mailed to the South Carolina Tax Commission, P.O. Box 125, Columbia, South Carolina 29214-0013.

II. INDIVIDUAL, FIDUCIARY, AND PARTNERSHIP INCOME TAX RETURNS

A. If the Taxpayer Will Receive a Refund or No Balance Is Due

1. Use of South Carolina Extension Form

The Commission will grant an automatic extension of time (up to six months) to file an individual, fiduciary, or partnership income tax return if Form SC4868, "Request

for Extension to File South Carolina Tax Return", is filed with the Commission by the due date of the return. When the return is filed, a copy of Form SC4868 should be attached to the front of the return, and, if available, the taxpayer should check the box on the South Carolina income tax return which indicates an extension was filed. If a given return does not have such a box, the taxpayer should write "EXTENSION" in the upper right hand corner of the return.

See Section I above for certain important restrictions and where to file the extension request.

2. Use of Federal Extension Form

If the taxpayer is filing an extension with the Internal Revenue Service, the Commission will grant an automatic extension of time to file an individual, fiduciary, or partnership return for the same length of time allowed by the taxpayer's federal extension. No form needs to be filed with the Commission by the due date of the return; however, a copy of the federal extension must be attached to the front of the South Carolina tax return when it is filed, and, if available, the taxpayer should check the box on the return which indicates an extension was filed. If a given South Carolina income tax return does not have such a box, the taxpayer should write "EXTENSION" in the upper right hand corner of the return.

See Section I above for certain important restrictions.

B. If the Taxpayer Will Owe Additional Tax

If any tax is anticipated to be due, the tax must be remitted with a Form SC4868 filed with the Tax Commission by the due date of the return. The taxpayer may file a federal extension form with the Tax Commission for a South Carolina extension and remit South Carolina taxes due; however, he should write "SOUTH CAROLINA" in large letters at the top of the extension and write in the correct amount of South Carolina taxes due. The tax paid with the extension must reflect at least 90 percent of the tax liability due on the Form SC1040 or SC1040A.

See Section I above for certain important restrictions and where to file the extension request.

When the South Carolina income tax return is filed, the taxpayer should attach a copy of the extension to the front of the return and check the box which indicates an extension was filed. If the return does not have this box, the taxpayer should write "EXTENSION" in the upper right hand corner of the return.

C. Request for Additional Time to File

If the taxpayer receives additional time for filing a Federal return beyond that granted with an initial extension (Federal Form 4868), the Commission will automatically grant

the same additional time for filing the South Carolina return, and no forms need to be filed with the Commission until the return is filed. If the taxpayer does not request additional time for filing his Federal tax return but needs further time to file his South Carolina return, he may file a Federal Form 2688 with the Commission or otherwise request such an extension in writing.

If the taxpayer filed a SC4868 and requested an extension period of less than six months, he may subsequently request in writing the additional time which added to the original request will equal six months, and it will automatically be granted.

The additional time given automatically is limited to the amount of time which added to the original request equals a total extension of six months. Any time beyond six months will not be granted except in unusual circumstances. These circumstances have included natural disasters and war. If a taxpayer thinks that his circumstances warrant such an extension, he may apply to the Commission; however, if the additional extension is not affirmatively granted, his return will be considered as filed late if it is not filed within six months of the original due date. Therefore, whenever possible, requests for extensions beyond six months should be made as soon as possible. If the taxpayer does not receive an answer to his request, he should call (803) 737-4801.

See Section I above for certain important restrictions and where to file the extension request.

When the return is filed, the taxpayer must attach the original extension form and Federal Form 2688 or the written request for additional time to the **front** of the return and, if available, the taxpayer should check the box on the South Carolina income tax return which indicates an extension was filed. If a given return does not have such a box, the taxpayer should write "EXTENSION" in the upper right hand corner of the return.

III. CORPORATE INCOME TAX RETURNS

A. Request for Extension

The Commission will grant an automatic extension of six months to file a South Carolina corporate income tax return if the corporate taxpayer files Form SC1120-T, "Tentative Corporation Tax Return and Conditional Extension" before the due date of the return. **A federal or any other state corporate extension form will not be accepted.** When the corporate return is filed, a duplicate of the extension must be attached to the **back** of the return and the "Extension Requested" box should be checked affirmatively. The amount paid with the extension must equal at least 90 percent of the total tax due. Any license fee due must also be remitted with the extension.

Corporations filing a consolidated return should file a single Form SC1120-T and attach a schedule listing the corporations to be included in the consolidated return. The license fees are computed separately and then added to the total.

See Section I above for certain important restrictions and where to file the extension request.

B. Additional Time to File

An additional period of time beyond the six months automatically granted will be given only in unusual circumstances. These circumstances have included natural disasters and war. If a corporate taxpayer thinks that his circumstances warrant such an extension, he may apply to the Commission; however, if the additional extension is not affirmatively granted, his return will be considered as filed late if it is not filed within six months of the original due date. Therefore, whenever possible, requests for extensions beyond six months should be made as soon as possible. If the taxpayer does not receive an answer to his request, he should call (803) 737-4705.

See Section I above for certain important restrictions and where to file the additional extension request.

When the return is filed, the corporate taxpayer must attach the original extension request form and the approved request for additional time to the **back** of the return and the "Extension Requested" box should be checked affirmatively.