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SC REVENUE RULING #87-2

- SUBJECT:** Income from a Subchapter S Corporation
- SUPERSEDES:** All previous documents and any oral directives in conflict herewith.
- REFERENCE:** S.C. Code Sections 12-7-410, 12-7-430
12-7-435, 12-7-235
- AUTHORITY:** S.C. Code Section 12-3-170
- SCOPE:** A Revenue Ruling is the Commission's official interpretation of how tax law is to be applied to a specific set of facts. A Revenue Ruling is public information and remains a permanent document until superseded by a Regulation or is rescinded by a subsequent Revenue Ruling.

Question:

Does a shareholder (resident of South Carolina) have to report to South Carolina his share of income from another states Subchapter S Corporation and, if so, would he be eligible for credit against tax paid on the same income in that other state?

Facts:

The a resident of South Carolina, is a shareholder in an out-of-state corporation which is electing Subchapter S status. The corporation has no income from South Carolina sources. The taxpayer actively and materially manages this wholesale florist business.

Discussion:

Section 12-7-410 as amended, states that the South Carolina gross income, adjusted gross income and taxable income of an individual is the same as determined under the Internal Revenue Code with the modifications specified in Sections 12-7-430 and 12-7-435. Section 12-7-430(e) provides that if the income of a taxpayer is subject to allocation or apportionment, or both, pursuant to Article 9, of this Chapter, the South Carolina taxable income is modified as provided in that article.

Section 12-7-235(b) as amended, provides that for South Carolina income tax purposes, an electing small business corporation and the shareholders are treated in the same manner provided in Subchapter S of the Internal Revenue Code. Pursuant to Subchapter S, shareholders are treated in essentially the same manner as partners in a partnership. Certain items of income, loss and deduction are "passed-through" to the shareholders. Each such item is treated as if it were realized by the shareholder directly from the source from which it was realized by the corporation or as if it were incurred by the shareholder in the same manner as incurred by the corporation.

Conclusion:

The taxpayer would report his federal taxable income on line 1 of his South Carolina tax return (SC1040). This would include his share of the Subchapter S corporation's income. On line 42, the taxpayer would modify his South Carolina income for the Subchapter S income, losses, and deductions not taxable to South Carolina pursuant to the allocation and apportionment provisions of Article 9. Pass through items of dividend, interest not connected with the business and gains or losses from the sale of intangible personal property not connected with the business would be allocable to South Carolina. All other income, losses and deductions would be apportioned to the other state since under the facts in this case no business is conducted in South Carolina, and South Carolina income would be modified for these items. Form 1099 dividends or W-2 wages reported to the shareholder are taxable to South Carolina. A tax credit would be allowed only on income earned from personal services (W-2 wages) taxable to South Carolina and also taxed by the other state. (March 24, 1987)

SOUTH CAROLINA TAX COMMISSION

s/S. Hunter Howard
S. Hunter Howard, Chairman

s/John M. Rucker
John M. Rucker, Commissioner

s/Howard E. Duvall
Howard E. Duvall, Commissioner

Columbia, South Carolina
March 24, 1987