
State of South Carolina
Department of Revenue
301 Gervais Street, P. O. Box 125, Columbia, South Carolina 29214

SC REVENUE RULING #96-10

SUBJECT: South Carolina Business Development Corporation
(Income Tax)

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

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

REFERENCES: S. C. Code Ann. Section 33-37-70 (1976)
S. C. Code Ann. Section 33-37-250 (As Amended by Act No. 353 of 1996)
S. C. Code Ann. Section 33-37-460 (Supp. 1995)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (Supp. 1995)
SC Revenue Procedure #94-1

SCOPE: A Revenue Ruling is the Department of Revenue's **official advisory opinion** of how laws administered by the Department are to be applied to a specific issue or a specific set of facts, and is provided as guidance for all persons or a particular group. It is valid and remains in effect until superseded or modified by a change in the statute or regulations or a subsequent court decision, Revenue Ruling or Revenue Procedure.

Question:

Is interest income received from loans made to a South Carolina business development corporation created under the provisions of Chapter 37 of Title 33 exempt from South Carolina income tax?

Conclusion:

Interest income received from loans made to a South Carolina business development corporation in accordance with Code Sections 33-37-460 and 33-37-250 is exempt from South Carolina income tax.

Discussion:

Code Section 33-37-70 addresses the taxation of a business development corporation and its securities. The pertinent portion of this statute provides:

...the securities, evidences of indebtedness, and shares of the capital stock issued by the corporation established under the provisions of this chapter, their transfer, income therefrom and deposits of financial institutions invested therein are free at all times from taxation within this State.

Article 3 of Chapter 37 provides that a business development corporation, a corporation of 25 or more persons, a majority of whom are residents of South Carolina, is created for the purpose of promoting, developing and advancing the prosperity and economic welfare of the State. In furtherance of the purposes for which the corporation is founded, the corporation is granted authority in Code Section 33-37-250 to borrow money from its members, the Small Business Administration, an agency of the United States Government, and other lending sources approved by the board of directors of the corporation for any of the purposes of the corporation, to issue therefor its bonds, debentures, notes or other evidences of indebtedness. Further, Code Section 33-37-460(5) provides that all loans to the corporation by members must be evidenced by bonds, debentures, notes or other evidence of indebtedness of the corporation which are freely transferrable.

A business development corporation, pursuant to Code Section 33-37-70, is not subject to South Carolina income taxation, and effective May 29, 1996, no longer subject to the South Carolina corporate license fee. Further, Code Section 33-37-80 provides that any stockholder, member or other holder of any securities, evidences of indebtedness or shares of capital stock is allowed a tax credit for nondeductible losses arising from the sale or other disposition of securities of the corporation.

Based upon the legislature=s granting of special tax incentives to the business development corporation and holders of it=s securities, and based upon the plain language in Code Section 33-37-70, we conclude that interest income from loans made to a South Carolina business development corporation in accordance with Code Sections 33-37-460 and 33-37-250 is exempt from South Carolina income taxation.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Burnet R. Maybank III

Burnet R. Maybank, III, Director

Columbia, South Carolina
October 14 _____, 1996