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SC TECHNICAL ADVICE MEMORANDUM #87-1

TO: Mr. William R. Geddings, Jr., Director
Office Services Division

FROM: John Swearingen, Manager
Tax Policy and Procedures Department

DATE: March 20, 1987

SUBJECT: Penalty For Underpayment of Declaration of Estimated Tax

REFERENCE: S.C. Code Section 12-7-2000

AUTHORITY: S.C. Code Section 12-3-170

SCOPE: A Technical Advice Memorandum is a temporary document issued to an individual within the Commission, upon request, and it applies only to the specific facts or circumstances related in the request. Technical Advice Memorandums have no precedential value and are intended for internal use only.

Question:

Does the exception to the declaration of estimated tax penalty provided under 12-7-2000 apply when a taxpayer pays in more than the previous year's tax liability?

Facts:

The taxpayer made a declaration of estimated tax but failed to pay at least seventy percent of the tax actually due. The estimated tax paid in is more than the previous year's tax liability.

Law:

Section 12-7-2000 provides that should a taxpayer fail to make an estimate on any quarterly due date equivalent to at least seventy percent of the final tax due a penalty shall be added. This section provides the following exception:

"The penalty provided by this Section shall not be applicable where the original amount of estimated tax is the same amount shown to be due by the return of the individual for the preceding taxable year where such return showing a liability for tax was filed by the individual for the preceding taxable year or twelve months."

Conclusion:

A literal reading of the exception provided in Section 12-7-2000 would only exempt from the penalty taxpayers who pay in as an estimate the same amount as the previous year's tax liability. We find such to be an unreasonable conclusion which does not reach legislative intent, which we feel was to require payment of the amount the taxpayer estimated the tax liability to be. The exception should be construed to be the minimum amount which must be paid. Therefore, a taxpayer who prepays more than the prior years liability is not subject to the penalty for underestimation of tax.