



SC TECHNICAL ADVISE MEMORANDUM #88-1

TO: Mr. Marvin Davant, Director
Field Services Division

FROM: John Swearingen, Manager
Tax Policy and Procedures Department

DATE: January 6, 1988

SUBJECT: Abandoned Property Interest

REFERENCE: S.C. Code Ann. Section 27-17-270(A), (amended 6/22/87)

AUTHORITY: S.C. Code Ann. Section 12-3-170 (1976)

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 Memoranda have no precedential value and are not intended for general distribution.

Question:

What is the effective date of the application of interest provided at Code Section 27-17-270(A) to unpaid or undelivered amounts of abandoned property?

Facts/Discussion:

S.C. Code Section 27-17-270 was amended to read in part as follows:

Section 27-17-270(A) A person who fails to pay or deliver property within the time prescribed by this chapter may be required to pay to the Tax Commission interest at the rate as provided for under 12-54-20 on the property or value thereof from the date the property should have been paid or delivered.

The amendments to Section 27-17-270 were included in Part II of the Permanent Provisions of the 1987 General Appropriations Act and became effective June 22, 1987.

There was no specific indication as to whether these amendments were to apply retroactively or prospectively.

The S.C. Supreme Court has ruled on the construction of statutes as follows:

In the construction of statutes, there is a presumption that statutory enactments are to be considered prospective rather than retroactive in their operation unless there is a specific provision or clear legislative intent to the contrary. Hyder v. Jones, 271 S.C. 85, 245 S.E. 2d 123 (1978); Jefferson Standard Life Ins. Co. v. King, 165 S.C. 219, 163 S.E. 653 (1932)

Conclusion:

The interest provided at 27-17-270(A) may be applied to unpaid or undelivered property outstanding on June 22, 1987 or arising after June 22, 1987. The interest shall accrue from the later of the effective date (June 22, 1987) or the date the property should have been paid or delivered. The interest is compounded and is subject to change quarterly as provided at 12-54-20.