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SC INFORMATION LETTER #91-18

TO: Vicki J. Ringer
Public Information Director

FROM: John P. McCormack
Tax Policy and Appeals Department

DATE: July 1, 1991

SUBJECT: Tax Assistance - Operation Desert Storm

REFERENCE: Title 12 - South Carolina Code of Laws, As Amended (1976, Supp. 1990)

AUTHORITY: S.C. Code Section 12-3-140 (1976)
SC Revenue Procedure #87-3

SCOPE: An Information Letter is a temporary document issued for the purpose of disseminating general tax information and to respond to technical questions from within the Commission which are not related to a specific set of facts.

In order to assist military personnel stationed in the Persian Gulf as a result of Operation Desert Storm, and their families, the Commission established various procedures and assistance programs. These procedures and programs were outlined in SC Information Letter #91-6.

The General Assembly, in a bill signed by the Governor on May 21, 1991, has provided additional assistance to military personnel and their families affected by Operation Desert Storm. The following sets forth the the entire assistance program established by the General Assembly and the Commission.

Extensions of Time to File Tax Returns:

Individual Income: For military personnel that are or were stationed in the Persian Gulf as a result of Operation Desert Storm, or who were called to active duty as a result of Operation Desert Storm, the time for filing their individual income tax returns (SC 1040, SC 1040A, and SC 1040NR) has been extended until at least 180 days after the taxpayer departs from the Persian Gulf or departs the military station to which he or she was called to active duty as a result of Operation Desert Storm.

The time for paying additional taxes due on the return, if any, has also been extended until at least 180 days after the taxpayer departs from the Persian Gulf or departs the military station to which he or she was called to active duty as a result of Operation Desert Storm.

The above extensions also apply to any joint returns such military personnel may file with their spouses. (See section below regarding penalties and interest.)

If the military person expects a refund, another person, such as a spouse or other family member, may sign the return for the military person, if the military person has given that person the authority to do so.

Corporate Income: The time for filing any corporate tax return (including S corporation and nonprofit returns) will be extended upon proper notification, if all the corporate officers are in the regular military, reserves, or national guard and stationed in the Persian Gulf or called to active duty as a result of Operation Desert Storm.

The time for filing the return and paying additional taxes due on the return, if any, will be extended until at least 180 days after the first corporate officer departs from the Persian Gulf or departs the military station to which he or she was called to active duty as a result of Operation Desert Storm. (See section below regarding penalties and interest.)

Corporations qualifying for this extension must notify the Commission, in writing at the address below, that all corporate officers are or were stationed in the Persian Gulf or called to active duty as a result of Operation Desert Storm. This will minimize the issuance of unnecessary delinquency notices for failure to file and prevent the cancellation of the corporate charter.

Sales and Use Tax and other Taxes filed on a Monthly or Quarterly Basis: The Commission will not automatically extend the time for filing these monthly or quarterly returns, where the business continues operations while the owner is stationed in the Persian Gulf as a result of Operation Desert Storm, but will review any request for an extension on a case by case basis, pursuant to the Commission's normal procedures.

Partnerships: The Commission will not automatically extend the time for filing partnership returns, but will review any request for an extension on a case by case basis, pursuant to the Commission's normal procedures.

Other Reasons: The Commission will review all other extension requests, which are the result of military service anywhere in the world due to the Persian Gulf crisis, on a case by case basis.

Mailing Address for Extension Requests: All extension requests related to the Persian Gulf and Operation Desert Storm must be in writing and sent to the following address:

Problems Resolution Office P. O. Box 11189 Columbia, South Carolina 29211-1189 Attn: Desert Storm

Such extension requests should include a copy of the taxpayer's military orders, or other documentation establishing military service due to the Persian Gulf crisis.

Further Extensions: The extension deadlines established by the Commission may be extended further, depending on circumstances in the Persian Gulf at that time and to ensure compliance with the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940.

Documentation Required Upon Filing of Return(s): Upon return from the Persian Gulf or active duty, a taxpayer filing a return extended under the provisions of this document should attach to the front of the return a copy of his or her military orders for the Persian Gulf, or other documentation establishing that he or she participated in Operation Desert Storm. With respect to a corporation where all the corporate officers were stationed in the Persian Gulf or called to active duty as a result of Operation Desert Storm, a copy of each corporate officer's military orders should be attached to the front of the return. In addition, the taxpayer should write "Desert Storm" across the top of the face of the tax return. The purpose of this is to minimize the issuance of unnecessary assessment notices for failure to file and/or failure to pay penalties and interest.

If a taxpayer is inadvertently assessed failure to file and/or failure to pay penalties or interest which have been waived pursuant to this document, the taxpayer should request, in writing, relief of such penalties and interest. Such request, along with any documentation, should be sent to the Problems Resolution Office at the above address.

Suspension of Collection Activities:

State Taxes: The Commission will suspend the enforced collection of any assessed liability of a taxpayer stationed in the Persian Gulf as a result of Operation Desert Storm if the assessed liability is (1) the sole obligation of the taxpayer or, (2) the joint obligation of the taxpayer and his or her spouse.

The Commission will review all other tax liabilities, with respect to the possible suspension of enforced collections, on a case by case basis and in accordance with the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940.

County Property Tax: For military personnel that are or were stationed in the Persian Gulf as a result of Operation Desert Storm, or who were called to active duty as a result of Operation Desert Storm, the time for filing property tax returns and property taxes was extended until June 15, 1991. The Commission has also been granted the authority, if deemed necessary, to extend the filing of property tax returns and paying property taxes beyond June 15, 1991.

Questions regarding the possible suspension of enforced collection of county property taxes should be addressed to the individual counties. The Commission and the State Comptroller General's office will provide technical assistance to the counties with respect to this matter.

Reinstatement of Collection Activities: The Commission will reinstate enforced collection activities of any assessed liabilities suspended pursuant to this document no sooner than 180 days after the taxpayer departs from the Persian Gulf or departs the military station to which he or she was called to active duty as a result of Operation Desert Storm.

Penalties and Interest:

Penalties: The Commission will waive any penalties due as a result of any extensions, or suspension of collection activities, granted under this document; however, penalties will be assessed if the above returns and taxes are not filed or paid by any extended due date authorized by the Commission or the Soldiers' and Sailors' Civil Relief Act of 1940.

Penalties due as the result of the failure to pay estimated taxes will be waived for any estimated taxes due while the individual taxpayer was stationed in the Persian Gulf as a result of Operation Desert Storm or called to active duty as a result of Operation Desert Storm.

Interest: The Commission will waive any interest due as a result of any extensions granted under this document; however, interest will be assessed if the above returns and taxes are not filed or paid by the extended due date.

With respect to tax debts prior to active service, the Soldiers' and Sailors' Civil Relief Act of 1940 limits interest to 6% per year on all tax debts incurred prior to a taxpayer's active military service, but only for the period of the taxpayer's active service.

In all cases, interest will accrue at the rates established by South Carolina law for any taxes due after the extended due dates authorized by the Commission or the Soldiers' and Sailors' Civil Relief Act of 1940.

Combat Pay of Members of the Armed Forces:

South Carolina has adopted many of the provisions of the Internal Revenue Code, including the provisions of Section 112. This section excludes certain combat pay from the definition of "gross income", thereby, exempting such pay from income taxes. The section provides various definitions and procedures with respect to exempting such income. All income exempt from federal income taxes under this section is also exempt from the South Carolina income tax.

Desert Storm Tax Hotline:

The Commission has established a hotline to provide tax assistance for military persons and their families affected by Operation Desert Storm. The tax hotline number is 1-800-277-TAXX (1-800-277-8299). The local number for the Columbia area is 737-4849.

Other Tax Assistance:

Military persons and their families affected by Operation Desert Storm can also receive tax assistance at any one of the Commission's nine Taxpayer Service Centers listed below.

Aiken	410 Barnwell Street N.W.	(803) 649-3061
Beaufort	Carolina Cove Executive Ctr.-Suite 112	(803) 524-2852
Charleston	3 Southpark Circle - Suite 202	(803) 571-3000
Columbia	301 Gervais Street	(803) 737-4660
Florence	1452 West Evans Street	(803) 661-4850
Greenville	211 Century Drive	(803) 241-1200
Myrtle Beach	141 McDonalds Court	(803) 293-6550
Rock Hill	875 Albright Road	(803) 324-7641
Spartanburg	Hillcrest Offices - Suite 475	(803) 594-4900

Soldiers' and Sailors' Civil Relief Act of 1940:

It is the intent of this document to comply with the Soldiers' and Sailors' Civil Relief Act of 1940. The Commission will, therefore, revise any extension dates and interest provisions as deemed necessary and establish any procedures or programs in order to comply with this Act.