



SC REVENUE PROCEDURE #89-3

- SUBJECT:** Bankruptcy - Prompt Determination of Income Tax of a Bankruptcy Estate
- EFFECTIVE DATE:** July 19, 1989
- SUPERSEDES:** All previous documents and any oral directives in conflict herewith.
- REFERENCE:** 11 USC 505(b)
- AUTHORITY:** S.C. Code Ann. Section 12-3-130 (1976)
S.C. Revenue Procedure #87-3
- SCOPE:** A Revenue Procedure is a statement describing agency procedures and is applicable only to employees of the South Carolina Tax Commission.
- PURPOSE:** To establish procedures within the Commission to facilitate the handling of a request for prompt determination of any unpaid liability of a bankruptcy estate.

Section A. Background

- (1) During the administration of a bankruptcy estate, the trustee is required to file tax returns for the estate. Under section 505(b) of the Bankruptcy Code, the trustee may request a prompt determination of any unpaid liability of the estate for any tax incurred during the administration of the estate, by submitting a tax return for the tax and a request for the determination to the Commission.
- (2) Unless the return is fraudulent or contains a material misrepresentation, the trustee, the debtor, and any successor to the debtor, will be discharged from any liability for the tax upon:
 - (a) payment of the tax shown on the return if (1) the Commission does not notify the trustee, within 60 days after the request, that the return has been selected for examination, or (2) Commission does not complete the examination and notify the trustee of any tax due, within 180 days (or any additional time as permitted by the bankruptcy court) after the request;

- (b) payment of the tax as determined by the bankruptcy court; or
- (c) payment of the tax as determined by the Commission.

Section B. Requesting Prompt Determination

- (1) If the trustee of a bankruptcy estate wishes to request a prompt determination by the Commission of income tax required to be shown on a return, the original of the return along with an attached cover letter requesting a prompt determination must be mailed to the following address:

Bankruptcy - Prompt Determination
P.O. Box 11249
Columbia, South Carolina 29211-1249

- (2) Within 60 Days from receipt of the return and letter requesting a prompt determination, the Commission will notify the trustee whether such return has been selected for examination or has been accepted as filed.
- (3) If the return is selected for examination, it will be examined on a priority basis. The Commission will notify the trustee of any tax due within 180 days of receipt of the return and letter of request, or within any additional time as permitted by the bankruptcy court.