



301 Gervais Street, P.O. Box 125, Columbia, South Carolina 29214

SC REVENUE PROCEDURE #91-2

SUBJECT: Issuance of Licenses to Indebted Taxpayers
(License Taxes)

TAX ANALYST: Deana West

EFFECTIVE DATE: May 22, 1991

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

REFERENCE: S.C. Code Ann. Section 12-21-2720 (Supp. 1990)
S.C. Code Ann. Section 12-21-2728 (Supp. 1990)
S.C. Code Ann. Section 12-21-2730 (Supp. 1990)
S.C. Code Ann. Section 12-21-3340 (Supp. 1990)
S.C. Code Ann. Section 12-21-3350 (Supp. 1990)
S.C. Code Ann. Section 12-36-510 (Supp. 1990)
S.C. Code Ann. Section 12-54-90 (Supp. 1990)

AUTHORITY: S.C. Code Ann. Section 12-3-130 (1976)
SC 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 administrative procedures for applying a taxpayers license tax or license fee payments to any type of tax indebtedness outstanding to the Commission.

Law:

The law provides that certain persons are required to obtain a license from the Commission for the privilege of operating a business activity and pay either a tax or a fee, if applicable, at the time of applying for the license.

Examples of licenses for which a tax or fee must be paid at the time of application include:

Type of License	Code Section
Bingo Promoter's License	12-21-3350
COD License	12-21-2720
COD Operator's License	12-21-2728
COD Table License	12-21-2730
Nonprofit Organization Bingo License	12-21-3340
Retail License	12-36-510

Examples of licenses for which no tax or fee must be paid include:

Tobacco Products License	12-21-660
Soft Drink License	12-21-1710

Code Section 12-54-90 provides for the revocation of a license to do business for failure to comply with the law and allows that a revoked license may not be reissued until all outstanding liabilities of the taxpayer are satisfied. In Attorney General Opinion No. 86-77 (Manual of Regulations and Opinions of the Attorney General AR-OAG-3), dated July 10, 1986, it was held that the "Commission may refuse to issue a license to any person who is delinquent in the payment of a tax liability."

Procedure:

Pursuant to the above code sections, Commission employees should proceed as follows when dealing with taxpayers who are indebted to the Commission for any type of tax and are applying for a license:

1. Applicants will be informed that a license will not be issued if all outstanding liabilities to the State have not been satisfied at the time of application. Application forms will be revised to inform applicants of this fact. The following provides an example of a statement to be added to the forms under revision:

A license will not be issued to a person with any outstanding State tax liabilities. Any license tax or fee paid with the application will be applied to the tax liabilities.

Until such time when all forms are revised, a statement outlining this policy will be attached to application forms. The statement will be underlined or typed in bold print on the attachment and on the revised forms.

2. Upon receipt of the application, the required fee or tax paid with the application, if any, should be immediately deposited pursuant to currently established procedures. It is important to remember that a Commission employee does not have the authority to refund a license tax or fee payment to an indebted applicant once the application is received or hold the license tax or fee payment in abeyance until the indebtedness is paid.
3. Commission employees will review the application and, in addition to the usual licensing process, check the applicant's filing history for unpaid liabilities to the State.
4. A license will not be issued if outstanding liabilities are discovered. For purposes of this procedure, a liability is outstanding if an assessment has been made and remains unpaid. A tax is assessed, except for property taxes, when a Notice of Assessment Form C-133 is sent to the taxpayer. For property tax purposes, a tax is assessed when an Assessment Notice and Tax Bill Form PT-140-A is sent to the taxpayer.

Exceptions will be made and a license issued to indebted tax-payers:

- (a) who, at the time of application, are paying all of their liabilities through a currently valid installment payment agreement (See Code Section 12-54-840 - Taxpayers' Bill of Rights),
 - (b) who, at the time of application, are currently appealing all outstanding liabilities, or
 - (c) when the Commission determines by guidelines established by it that a new license may be issued (See Code Section 12-54-90(c)).
5. If outstanding liabilities exist, Commission employees will send a letter of explanation to the applicant explaining the Commission's inability to issue a license. This letter will include:
 - (a) the policy outlined in this procedure;
 - (b) the current amount of all outstanding liabilities, penalties and interest;
 - (c) the appropriate steps to satisfy the debt and receive the license; and,
 - (d) the date the license fee or tax payment, if applicable, will be transferred and applied to the outstanding liabilities if the applicant does not pay the amount due within 30 days of notification (see item #7).

This letter should be mailed after steps #1 - 4 have been completed.

6. If the taxpayer satisfies all outstanding liabilities owed to the State within 30 days of the written notification, the applicant will be issued the originally applied for license. The license may be issued immediately only if payment is made with a cashiers check, money order, or cash.

7. If the taxpayer does not pay the debt within 30 days of the written notification, the previously deposited payment for the license tax or fee will be applied to the indebtedness. At such time, the license application, but not the tax or fee, will be returned with a letter of explanation. In situations where the license tax or fee payment exceeds the debt to which it has been applied, a refund will be issued for the difference.