



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

SC REVENUE RULING #88-1

SUBJECT: Income Tax: Penalty for Underpayment of Estimated Tax

EFFECTIVE DATE: Income Years Beginning Prior to January 1, 1988

REFERENCE: S.C. Code Ann. Section 12-54-55 (Supp. 1987)
S.C. Code Ann. Section 12-54-160 (Supp. 1987)

AUTHORITY: S.C. Code Ann. Section 12-3-170 (1976)
SC Revenue Procedure #87-3

SCOPE: A Revenue Ruling is the Commission's official interpretation of how tax law is to be applied to a specific set of facts. A Revenue Ruling is public information and remains a permanent document until superseded by a Regulation or is rescinded by a subsequent Revenue Ruling.

Question:

Will the Commission waive the penalty for underpayment of estimated tax due to the increase in the required payment from 70% to 90%?

Facts:

S.C. Code Section 12-54-55 was adopted to conform the penalties for underpayment of estimated income tax to Internal Revenue Code Sections 6654 and 6655. The legislation was approved June 22, 1987 and was effective for years beginning after Dec. 31, 1986. The provisions of this section increased the amount required to be paid in as estimated tax to 90 percent and lowered the penalty to simple interest. The old penalty section (12-7-2000) required 70 percent to be paid in as estimated tax with a penalty of 5 percent and simple interest. Thus, while reducing the amount of the penalty, the new provision increased the amount required to be paid in.

Discussion:

The purpose of Section 12-54-55 was to conform the underpayment of estimated tax penalties to the federal penalties (with the exception of the small amount provision which is \$100 for South Carolina but \$500 for federal).

The Tax Reform Act of 1986 increased the individuals required payments for federal purposes from 80 percent to 90 percent. Subsequently, the Technical Corrections Act of 1987 delayed the increase in the individuals required payments to years beginning after Dec. 31, 1987. The primary reasons for delaying the increase from 80 percent to 90 percent was due to the problems with Form W-4 and other provisions of the 1986 Act. Waiver provisions in the Tax Reform Act provide that no penalties for underpayment of estimated taxes shall be made for any period before April 16, 1987 (March 16, 1987 in the case of corporations).

S.C. Code Section 12-54-160 provides that the Commission, unless prohibited within a specific section may waive, dismiss, or reduce penalties.

In view of the problems arising from the Tax Reform Act of 1986, the delay in the increase from 80 percent to 90 percent at the federal level and the fact that the first two payments of calendar 1987 (April 15 and June 15) were past when Section 12-54-55 was approved on June 22, 1987, the penalties resulting from the increase from 70 percent to 90 percent for state purposes will be waived.

Conclusion:

The penalty for underpayment of estimated tax due to the increase in the required payment from 70 percent to 90 percent will be waived for income tax years beginning prior to Jan. 1, 1988. (Feb. 3, 1988)

SOUTH CAROLINA TAX COMMISSION

s/S. Hunter Howard Jr.

S. Hunter Howard, Jr., Chairman

s/John M. Rucker

John M. Rucker, Commissioner

s/A. Crawford Clarkson, Jr.

A. Crawford Clarkson, Jr., Commissioner

Columbia, South Carolina
February 3, 1988