



SC TECHNICAL ADVICE MEMORANDUM #87-7

TO: Mr. William R. Geddings, Director  
Office Services Division

FROM: John Swearingen, Manager  
Tax Policy Department

DATE: August 26, 1987

SUBJECT: Interest Computation on Overpayment of Estimated Tax

REFERENCE: S.C. Code Section 12-54-30 & 12-7-1980

AUTHORITY: S.C. Code Section 12-3-170

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:

Whether interest on overpayments of estimated income tax should be calculated from the date paid or beginning 75 days after the filing of the re- turn?

Facts:

In March, 1987, the taxpayer received a refund check from the South Carolina Tax Commission resulting from the overpayment of its 1985 South Carolina income tax liability. Upon examination of the refund amount and the accompanying interest, an attempt was made by the taxpayer to calculate the interest based on Section 12-54-30 of the Code of Laws of South Carolina, 1976. Following those guidelines, the interest determined to be due by the taxpayer on the refund was \$1,005.48. However, the interest received was \$190.41.

The taxpayer contacted Mr. Charles B. Bruorton in the Corporate Tax Section of the Commission's Office Services Division to inquire as to the basis on which interest on our refund was calculated. Mr. Bruorton stated that the interest was calculated at 9% compounded daily (following Internal Revenue Code Section 6621) beginning 75 days after the filing of the final return.

Summary of Taxpayer's 1985 Income Tax Liability Payments

<u>Payment Date</u>	<u>Amount</u>
03/15/85	\$ 320,000
06/14/85	320,000
09/16/85	250,000
12/16/85	<u>149,000</u>
Total 1985 Payments	\$1,039,000
03/17/86	<u>2,000,000</u> (Paid with Tentative Corporation Tax Return and Conditional Extension)
Total Payments	\$3,039,000
Income Tax Liability per Return filed 10/15/86	<u>3,028,658</u>
Overpayment (Refund Due)	<u><u>\$ 10,342</u></u>

Discussion:

S.C. Code Section 12-54-30 is a general statute allowing interest on refunds of overpayments of tax, penalty or interest from the date paid to the date the order for refund or credit was issued. However, this section specifically provides that no interest be paid on refunds provided under 12-9-380 (withholding) during the first seventy-five days following the due date for filing of the return or the date the return was filed which-ever occurs later.

S.C. Code Section 12-7-1980 specifically addresses overpayments of estimated tax and the claims for refund resulting therefrom. This statute provides:

"No interest shall be paid on refunds of excessive estimates or taxes withheld during the first seventy-five days following the due date for the filing of the return of income or the date the return was filed whichever occurs later...."

As a general rule, two statutes which appear to be in conflict should be construed in such a manner that both can be given full force and effect.

"In the absence of a showing to the contrary, all laws are presumed to be consistent with each other. Where it is possible to do so, it is the duty of the courts, in the construction of statutes, to harmonize and reconcile laws, and to adopt that construction of a statutory provision which harmonizes and reconciles it with other statutory provisions."

73 AM JUR 2d Section 254

In order to harmonize statutes which appear to be conflicting, it is an old and familiar principle that specific acts should be read as exceptions to general acts whether enacted previously or subsequently.

"....with respect to a conflict arising between a statute dealing generally with a subject, and another dealing specifically with a certain phase of it, the specific legislation controls in a proper case.

73 AM JUR 2d Section 258

Conclusion:

In order to harmonize 12-54-30 and 12-7-1980, 12-54-30 should be viewed as a general statute governing all refunds not specifically provided for in other sections of the code. The provision for interest on overpayments of estimated tax is specifically provided for in 12-7-1980 to begin seventy-five days following the due date for the filing of the return of income or the date the return was filed whichever occurs later. Therefore, the interest amount refunded to the taxpayer was correctly calculated.