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SC INFORMATION LETTER #91-14

TO: Vicki Ringer
Public Information Director

FROM: John P. McCormack, Manager
Tax Policy and Appeals Department

DATE: June 14, 1991

SUBJECT: Long-Term Capital Gains Refund
Waiver of Underpayment Penalty for 1991 Estimated Taxes
(Income Tax)

REFERENCE: S.C. Code Ann. Section 12-7-460 (As Amended June, 1990)

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

AUTHORITY: S.C. Code Ann. 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.

Code Section 12-7-460 has been amended to repeal the 1991 portion of the long-term capital gains tax refund allowed for taxpayers who recognized a long-term capital gain in 1987, if the gain was recognized pursuant to a written contract of sale executed between January 1, 1987 and June 22, 1987. SC Revenue Ruling #91-1 provides a definition of what constitutes a "written contract of sale executed between January 1, 1987 and June 22, 1987".

Previously, the statute permitted the refund to be paid in two installments, with the first installment paid when refunds are paid for the 1990 taxable year and the second paid when refunds are paid for the 1991 taxable year. The second installment has, pursuant to Section 6 of Part II of the 1991-92 Appropriations Bill, been eliminated.

Any taxpayer subject to a penalty for underpayment of 1991 estimated taxes because of the elimination of the capital gains refund installment for 1991 may request a waiver of the penalty.

Taxpayers requesting a waiver should attach Form SC 2210 to their 1991 income tax return and write "Waiver/Capital Gains Refund" in the left margin of the form. The Commission will waive the underpayment penalty, where appropriate, pursuant to Code Section 12-54-160 and SC Revenue Procedure #87-2.

Furthermore, the amendment also retroactively repeals the entire long term capital gains refund for any taxpayer convicted of a felony in state or federal court in connection with the enactment or amendment, or both, of Section 27, Part II, of Act 658 of 1988, the Long Term Capital Gains Refund.