
State of South Carolina
Department of Revenue
301 Gervais Street, P. O. Box 125, Columbia, South Carolina 29214

SC INFORMATION LETTER #95-17 (TAX)

SUBJECT: ADMINISTRATIVE PRONOUNCEMENT
Double Weighted Sales Factor Formula - Effective Date
(Income Tax)

DATE: August 25, 1995

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

REFERENCE: S.C. Code Ann. Section 12-7-1140 (June 12, 1995)

AUTHORITY: S.C. Code Ann. Section 12-4-320 (Supp. 1994)
SC Revenue Procedure #94-1

SCOPE: An Information Letter is a document issued for the purpose of disseminating general information or information concerning an administrative pronouncement.

Information Letters issued to disseminate general information have no precedential value and do not represent the official position of the Department. Information Letters designated as administrative pronouncements are official advisory opinions of the Department.

LAW:

Act No. 60, S.B. 285 amending Code Section 12-7-1140, was signed by the Governor and became effective on June 12, 1995. It now provides:

A taxpayer whose principal business in this State is (a) manufacturing or any form of collecting, buying, assembling, or processing goods and materials within this State, or (b) selling, distributing, or dealing in tangible personal property within this State, shall make returns and pay annually an income tax which includes its income apportioned to this state. Its income apportioned to this state is determined by multiplying the net income remaining after allocation under Section 12-7-1120 and 12-7-1130 by a fraction the numerator of which is the property ratio, plus the payroll ratio, plus twice the sales ratio, and the denominator of which is four. However, where the sales ratio does not exist, the denominator of the fraction is the number of existing ratios, and where the sales ratio exists but the payroll ratio or the property ratio does not exist, the denominator of the fraction is the number of existing ratios plus one. The property, payroll, and sales ratio must be determined in accordance with Sections 12-7-1150, 12-7-1160, and 12-7-1170, respectively.

The amendments made by Act No. 60, S.B. 285 require that the sales ratio of the apportionment formula be counted twice or be "double weighted" in determining what formula is to be applied in determining South Carolina taxable income. Prior to amendment, the sales factor carried equal weight with the property and payroll factors of the formula.

The Act provided that the amendments to Code Section 12-7-1140 would take effect upon approval of the Governor (June 12, 1995), but did not specifically address for what tax years the amendments were to be effective.

PROCEDURE:

Introduction:

Questions have arisen as to whether taxpayers are required to split their tax year in applying the double weighted sales factor formula which became effective June 12, 1995, or whether the new double weighted sales factor formula may be applied to a taxpayer's entire tax year.

As a general rule, a taxpayer calculates federal gross, adjusted gross and taxable income based on a twelve month reporting period. To require the taxpayer to "split the year" by requiring the taxpayer to use one method of apportioning income for one part of the year, while requiring it to use a different method from June 12, 1995 through the remainder of its tax year may cause great administrative inconvenience to taxpayers.

"It is a well established concept of statutory interpretation that it is not to be presumed that the legislature intended to establish a rule or statute that would result in inconvenience, and where a statute is ambiguous and susceptible of two constructions, convenience may be taken into consideration in the interpretation thereof." 73 Am. Jur. 2D Statutes Section 262.

Options Available to the Taxpayer:

Accordingly, taxpayers will have two options in applying the double weighted sales factor formula for their taxable year beginning immediately prior to June 12, 1995 and ending after June 12, 1995.

Option 1:

A taxpayer may use the new double weighted sales factor formula for its entire taxable year effective the first day of its tax year commencing immediately prior to June 12, 1995.

Option 2:

A taxpayer may use the single weighted sales factor formula for all days in the tax year up to June 11, 1995, and effective June 12, 1995, use the double weighted sales factor formula for all days remaining in the taxable year.

For example, if a taxpayer is a calendar year taxpayer, the taxpayer may use the double weighted sales factor formula for the entire tax year, January 1, 1995 through December 31, 1995. Alternatively, the taxpayer may use the single weighted sales factor formula from

January 1, 1995 through June 11, 1995 and use the double weighted sales factor formula from June 12, 1995 through December 31, 1995.

Explanation of Option Two - "Splitting the Tax Year":

If a taxpayer chooses to use the method described in Option 2 above, the taxpayer may calculate the amount of tax due by using a pro rata approach or by closing its books. Using the pro rata approach, this calculation would be done as follows:

Step 1: The taxpayer's South Carolina income for the entire tax year is first determined by using the single weighted sales formula. This result would then be multiplied by a fraction, the numerator of which is the number of days in the taxpayer's tax year prior to June 12, 1995 (162 if the taxpayer is a calendar year taxpayer) and the denominator of which is 365.

Step 2: The taxpayer's income for the entire tax year would then be determined using the double weighted sales formula. This result would then be multiplied by a fraction the numerator of which is the number of days in the taxpayer's tax year after June 11, 1995 (203 if the taxpayer is a calendar year taxpayer) and the denominator of which is 365.

Step 3: The taxpayer's South Carolina taxable income for the taxable year would be the sum of Step 1 and Step 2.

If a taxpayer chooses to close its books and records, the taxpayer would close its books on June 11, 1995 and apply the single weighted sales formula to the ratios and the net income as determined by the taxpayer's books and records for that portion of its taxable year occurring prior to June 12, 1995. The taxpayer would then apply the "double weighted" sales formula to the ratios and net income as determined by the taxpayer's books and records for that portion of its tax year occurring from June 12, 1995, through the end of its taxable year. These sums would then be added together to determine taxpayer's South Carolina taxable income for its entire tax year.

The options presented in this Information Letter are available to taxpayers for any fiscal or calendar year that includes June 12, 1995. However, for all tax years that begin subsequent to June 12, 1995, a taxpayer must use the double weighted sales factor formula.

For Further Information:

If you have questions concerning this Administrative Pronouncement, you may contact Jerilynn VanStory at (803)737-5006.

NOTE: The General Assembly, during the 1995 Legislative Session, recodified the State Income Tax and enacted a Revenue Procedures Bill. The recodified version has simplified the law by updating language and reorganizing and combining code sections in a logical manner. This law is effective for taxable years beginning after 1995. Additionally, the Code Commissioner is in charge of incorporating and synthesizing all the changes made to the tax code during the 1995 Legislative Session. As a result of these changes, Code Section 12-7-1120 and 12-7-1130 have been redesignated as Code Sections 12-6-2220 and 12-6-2230, respectively. Code Sections 12-7-1140, 12-7-1150, 12-7-1160 and 12-7-1170 have been redesignated as Code Sections 12-6-2250, 12-6-2260, 12-6-2270 and 12-6-2280, respectively.