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

SC INFORMATION LETTER #97-24

SUBJECT: Special Capital Gains Refund
(Income Tax)

DATE: December 17, 1997

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

REFERENCE: S. C. Code Ann. Section 12-7-460 (Supp. 1989)

AUTHORITY: S.C. Code Ann. Section 12-4-320 (Supp. 1996)
SC Revenue Procedure #97-8

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

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In 1989, the South Carolina Legislature passed a law allowing taxpayers with long-term capital gains recognized in 1987 pursuant to a written contract of sale executed between January 1, 1987, and June 22, 1987, to receive a special capital gains refund. The refund was to be issued in two annual installments.

The refund was enacted after South Carolina adopted the federal Tax Reform Act of 1986 on June 22, 1987. In adopting the Tax Reform Act of 1986, South Carolina eliminated the capital gains deduction effective January 1, 1987. The purpose of the special capital gains refund was to give effect to the capital gains deduction to taxpayers with net long-term capital gains prior to June 22, 1987.

The first installment of the refund was paid with the 1990 income tax returns. The Legislature repealed the second installment of the refund and it was not paid. In 1997 in Rivers v. State of South Carolina, 490 S.E.2d 261 (SC 1997), the South Carolina Supreme Court ruled that it was improper for the State eliminate the second installment of the special capital gains refund.

As a result of that decision, the Department of Revenue is issuing the second installment of the special capital gains refund to taxpayers who applied for and received the first installment in connection with their 1990 South Carolina income tax return. The refund is the same as the amount taxpayer received with his first installment, plus interest calculated from April 15, 1992.

Checks were mailed on December 12, 1997 and December 15, 1997, to all taxpayers identified by the Department who qualify for the second installment. An individual taxpayer who believes he is entitled to the refund, but did not receive it, may call 898-5712. Fiduciaries should call 898-5858. Taxpayers should have their 1990 South Carolina income tax return readily available before calling.