



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

SC REVENUE PROCEDURE #91-4

SUBJECT: Faxing of Returns and Other Confidential Information  
(All Taxes)

TAX MANAGER: Jerry Knight

EFFECTIVE DATE: June 14, 1991

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

REFERENCE: S.C. Code Ann. Section 12-54-240 (Supp. 1990)

AUTHORITY: S.C. Code Ann. Section 12-3-130 (1976)  
SC Revenue Procedure #87-3

SCOPE: A Revenue Procedure is a statement describing agency procedures and is applicable only to employees of the South Carolina Tax Commission.

PURPOSE: To provide guidelines regarding the sending and receiving of confidential information via fax transmissions.

A. Faxing of confidential information by Commission employees to parties outside the Commission.

Much of the information with which the Commission works is confidential. For example:

1. Code Section 12-54-240 prohibits disclosure of information "in any report or return required under Chapters 7 [income tax], 15 [estate tax], 17 [gift tax], or 36 [sales and use taxes]", except in accordance with proper judicial order or as otherwise provided by law. Persons found violating the provisions of this section shall be guilty of a misdemeanor and upon conviction could be fined up to one thousand dollars and sentenced to as much as one year in prison. In addition, if the offender is a state employee, then he/she will lose his/her job and may not hold another position with the State for five years.

2. Code Section 12-21-1920 prohibits disclosure of "any formula or any particulars of any formula pertaining to any drink referred to in 12-21-1880 to 12-21-1930", except in accordance with proper judicial order or as otherwise provided by law; Code Section 48-30-70 (the "Primary Forest Product Assessment Law") prohibits disclosure of information obtained from a production report; Code Section 27-17-300 prohibits disclosure of certain information pertaining to unclaimed property; and Code Section 12-9-670 prohibits disclosure of "the amount of withholding of income or any particulars set forth or disclosed in any report or return required under [Chapter 9]".
  3. Code Section 30-4-40(a) of the Freedom of Information Act ("FOIA") exempts certain matters from disclosure, such as trade secrets of taxpayers and information of a personal nature where disclosure would constitute an unreasonable invasion of a taxpayer's privacy.
- B. In light of the aforementioned statutory provisions, confidential information will not be faxed to parties outside the Commission, except to a taxpayer or the taxpayers' representative. In those instances where faxing of confidential information to a taxpayer or the taxpayer's representative is requested, the below procedures should be adhered to:
1. The taxpayer or the taxpayer's representative must request that the return or information be faxed rather than mailed or forwarded in some other manner. Requests for copies of returns or return information must be in writing, except in those situations where the taxpayer is actively engaged in dealings with Commission personnel (e.g. field or office audit, claim for refund, etc.).
  2. A fee is charged for providing copies of returns - \$5.00 per return, plus sales tax, for those returns filed on an annual basis and \$1.00 per return, plus sales tax, for those returns filed on other than an annual basis (e.g. monthly). A fee of \$2.50 per period, plus sales tax, is charged for tax account information.
  3. Written requests for copies of returns or tax account information may be made by using a Form SC4506 ("Request for Copy of Tax Form or Tax Account Information") or by sending a letter to: South Carolina Tax Commission, P.O. Box 125, Columbia, SC 29214-0014.
    - a. Requests made via letter are to contain:
      - (1) the name, address and identifying number of the taxpayer;
      - (2) a description of the information requested, including type of tax(es) and taxable period(s);and
      - (3) if applicable, the date, type and/or reference number of any Commission document referred to by the taxpayer or the taxpayer's representative (e.g. assessment, letter, notice).

4. Prior to sending confidential information to a representative of the taxpayer, a valid power of attorney must be on file for the representative. (See Section F. concerning powers of attorney.)
  5. Employees are to request permission from their supervisor prior to forwarding confidential information via fax to a taxpayer or the taxpayer's representative.
  6. "Confidential" should be clearly stamped or written on the fax cover sheet and on the first page of each document faxed.
  7. If practical, immediately prior to faxing the information, the person to whom the information is being faxed should be contacted to allow them to be physically located at the receiving fax machine.
  8. A copy of the fax machine confirmation slip and a copy of the information faxed (including the cover sheet) should be retained as a record of what and to whom the information was sent. How such documentation is retained is left to the discretion of each division.
- D. Filing of returns, claims for refunds and statute of limitations waivers via fax transmission. Tax returns, claims for refunds and statute of limitations waivers may not be filed with the Commission via fax transmission.
- E. Faxing of returns between offices of the Commission. Originals of returns are to be forwarded between the various offices of the Commission via interagency mail. However, reference copies may be faxed between offices, if needed, with the following procedures being adhered to:
1. Employees are to request permission from their supervisor prior to faxing returns to any office of the Commission.
  2. "Confidential" should be clearly stamped or written on the fax cover sheet and on the first page of each document faxed.
  3. A copy of the fax machine confirmation slip and the return(s) faxed (including the cover sheet) should be retained as a record of what return and to whom it was faxed. The method(s) by which such records are maintained is left to the discretion of each office.
- F. Providing powers of attorney via fax transmission. A power of attorney may be forwarded to the Commission via fax, only when forwarding of the power of attorney by any other means (e.g. mail or overnight delivery service) will not suffice and the sending party gives sufficient reason(s) for so doing.