



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

SC REVENUE PROCEDURE 91-5

SUBJECT: Payments in Immediately Available Funds

TAX ANALYST: Jean P. Croft

SUPERSEDES: SC Revenue Procedure #90-3

EFFECTIVE DATE: January 1, 1991

REFERENCE: S.C. Code Ann. Section 12-54-250 (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 under Code Section 12-54-250 for the payment of a tax in funds that are immediately available to the State.

Section 12-54-250 (enacted June 13, 1990) states that the Commission may require any person owing twenty thousand dollars or more in connection with any return, report, or other document to pay the tax liability in funds which are available immediately to the State.

TAXPAYERS REQUIRED TO FILE IN IMMEDIATELY AVAILABLE FUNDS

To enforce this statute, the Commission has stated that, effective January 1, 1991, taxpayers with a liability of \$20,000 or more during a filing period for any of the following tax types are required to make payments in "immediately available funds", as such term is defined in this Revenue Procedure:

<u>Tax Type</u>	<u>Tax Type Code*</u>
Admissions Tax	10901
Alcoholic Case Additional Tax	11005
Alcoholic Case Retail Tax	11004
Alcoholic Case Wholesale Tax	11003
Alcoholic Liquor Excise Tax	11001

<u>Tax Type</u>	<u>Tax Type Code*</u>
Alcoholic Liquor Surtax	11007
Beer Excise Tax	11202
Bingo Tax	12550
Commercial Nuclear Waste Tax	11101
Electric Power Tax	11701
Gasoline Tax	32301
Indigent Care Tax	43105
Soft Drink Wholesale Tax	12005
Special Fuels Tax	32101
Tobacco Products Tax	11408
Wine Additional Tax	11301
Wine Excise Tax	11303

The tax type code is a general ledger code currently printed on the forms used to report the tax liabilities for these tax types. Taxpayers required to file tax payments in immediately available funds must enter this number in the appropriate spaces on the forms used for these payments.

Taxpayers with a tax liability of \$20,000 or greater for any filing period during the previous 12 months for any one of the taxes listed above will be required to make payments of that tax by this method. New qualifying taxpayers will be identified every 6 months.

Additional tax types will be added to the above list in the future. The Commission will inform taxpayers when they are required to begin making payments in immediately available funds.

Taxpayers are not required to pay any taxes in immediately available funds until notified by the Tax Commission. Each qualifying taxpayer will receive a packet from the Tax Commission explaining the program and placing them on notice that they are required to pay in this manner. The packet will also contain the name of a coordinator who taxpayers may contact if they have questions concerning the paying procedure.

If more than one tax liability is reported on a single return, taxpayers are required to pay by this method for all taxes on that return even if only one of the taxes exceeds the \$20,000 limitation.

Government agencies currently making tax payments through Interdepartmental Transfers and seasonal filers are exempt from this program. Seasonal filers are taxpayers who conduct business in the State and are required to file and pay a tax liability only during certain seasonal months of the year, such as, summer or winter months.

Any taxpayer who is not required to make payments in immediately available funds, but wishes to do so, may voluntarily participate by completing the Registration Application and filing it with the Commission.

DEFINITION OF "IMMEDIATELY AVAILABLE FUNDS"

The Commission has defined "immediately available funds" to be payments paid in cash or by electronic funds transfer (EFT). Cash: In order for cash to be an acceptable form of payment the following conditions must be met:

1. The cash must be delivered to the main office (301 Gervais Street, Columbia, SC) of the South Carolina Tax Commission before 5 p.m. on the due date of the payment.
2. Cash is defined as money or currency issued by the United States of America intended to pass and circulate as such. It does not include cashier's checks, money orders, or personal checks.
3. The taxpayer must select cash as a payment method as discussed below.

IRC §6050I requires any person in a trade or business who, in the course of the trade or business, receives more than \$10,000 in cash in one or more related transactions to report it on an information form (Form 8300) with the IRS within 15 days. Information reported on this return includes the name, address and taxpayer identification number of the payor; the name, address and taxpayer identification number of the person for whom the transaction was conducted if the recipient knew or had reason to know that the payor was an agent for another; the amount of cash received; the date and nature of the transaction; and all other information requested by Form 8300. Taxpayers should be aware that this information will be reported if the payment falls under the requirements of IRC §6050I.

Electronic Funds Transfer: The Commission has also designated two methods of electronic funds transfers from which taxpayers may choose, both of which are offered through the Automated Clearing House (ACH).

The first option, the Automated Clearing House Debit, allows the taxpayer to authorize the State to electronically transfer tax payments from the taxpayer's depository into the State's account. The second option, the Automated Clearing House Credit, involves the taxpayer instructing his depository or currency management provider to transfer the funds to the State at such time to assure the State's receipt of the funds by the due date. The cost of the first option is charged to the State, and the cost of the second is charged to the taxpayer.

A third form of electronic funds transfer, Federal Wire transfers (FEDWIRE), will be an acceptable payment method if the ACH Credit or ACH Debit transactions fail (for example, if there is a problem transmitting the information to the clearinghouse or if the computer lines are down for some reason). The taxpayer must first contact the EFT coordinator or his/her designate for approval to use this method by calling 1-(800) 476-0311 or 737-4619 (within the Columbia area).

Selection of Payment Method: The taxpayer must select one of the payment methods by completing the Registration Application that will be provided for taxpayers required to pay in immediately available funds. Once a taxpayer is approved to pay by a particular method, he

must pay by this method (ACH debit, ACH credit, or cash) until he applies for and receives approval from the EFT coordinator to change his method of payment. If a taxpayer is required to make payments in immediately available funds, he must continue to make payments in one of the defined forms of immediately available funds for one year.

REGISTRATION FOR ELECTRONIC FUNDS TRANSFER PROGRAM

Each taxpayer participating in the electronic funds transfer program, whether such participation is voluntary or compulsory, is required to complete a Registration form and file it with the EFT coordinator. On the Registration form the taxpayer will designate the method of electronic funds transfer and the name of a company contact person. If the debit method of transfer is chosen, the taxpayer must also give the bank name, its American Bank Association number, and the bank account number of the bank from which the funds are to be transferred.

After receiving this Registration form, the Commission will process the information contained therein. Upon completion of this procedure, the taxpayer will be notified of the date on which EFT payments are to begin, which generally will be 90 days after notification of the requirement to pay by electronic funds transfer.

WITHDRAWAL

If a taxpayer making payments of a particular tax liability in immediately available funds has not surpassed the \$20,000 threshold with respect to that tax in 12 consecutive months, he may withdraw from the program. Such request must be made in writing and sent to the EFT coordinator.

PENALTIES

Failure to make timely payment in immediately available funds subjects the taxpayer to penalties and interest as provided by law for delinquent or deficient tax payments. Section 12-54-40 contains these penalties and states in part:

(1) In the case of failure to file a return on or before the date prescribed by law, there must be added to the amount required to be shown as tax on the return a penalty of five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of the month during which the failure continues, not exceeding twenty-five percent...

(2)(a) In the case of failure to pay the amount shown as tax on any return on or before the date prescribed by law (determined with regard to any extension of time for paying), there must be added to the tax due a penalty of one-half of one percent of the amount of the tax if the failure is for not more than one month, with an additional one-half of one percent for each additional month or fraction of the month, during which the failure continues, not exceeding twenty-five percent in the aggregate.

Payment in immediately available funds and the filing of the return are considered simultaneous events with respect to computing penalties and interest for failure to file or failure to pay. The failure to file and the failure to pay penalties will be calculated based on the later of the return postmark date or the payment date.

Taxpayers may still file extensions pursuant to Section 12-54-70 for returns that are required to have payments made in immediately available funds. The failure to file penalty will apply if the extension or the extended return is not timely filed. Any tax liability payment or portion of such payment which is not timely paid will be subject to the failure to pay penalty for the period of time for which it remains unpaid.

ADDITIONAL INFORMATION

Any questions or requests for further information concerning payments in immediately available funds should be directed to EFT Coordinator, South Carolina Tax Commission, P.O. Box 125, Columbia, South Carolina 29214, 1-(800)476-0311 or 737-4619 (within the Columbia area).