



SC REVENUE PROCEDURE #92-6

**SUBJECT:** Who May Represent Persons Before The South Carolina Tax Commission and Local Taxing Authorities

**TAX ANALYST:** Malane S. Pike

**EFFECTIVE DATE:** May 4, 1992

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

**REFERENCE:** S.C. Code Ann. Section 12-4-335 (Enacted May 4, 1992)  
United States Treasury Department Circular No. 230  
SC Revenue Procedure #92-4

**AUTHORITY:** S.C. Code Ann. Section 12-4-320 (Supp. 1991)  
SC Revenue Procedure #87-2

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

**PURPOSE:** To establish guidelines to assist taxpayers and the Commission in determining who has authority to represent taxpayers in the administrative tax process.

BACKGROUND INFORMATION:

On May 4, 1992, the Governor signed into law Section 12-4-335, which governs who may represent taxpayers before the South Carolina Tax Commission ("Tax Commission") and before local taxing authorities during the "administrative tax process".

QUESTIONS & ANSWERS

Administrative Tax Process:

1. Q. **What is the "administrative tax process"?**
  - A. The "administrative tax process" includes all activities connected with a taxpayer's rights, privileges or liabilities under laws, regulations and rules administered by the Tax Commission or local taxing authorities. Such activities include:

- (a) Preparation and/or filing of documents (e.g. tax returns);
- (b) Correspondence and other communications; and
- (c) Representing clients at conferences, hearings and meetings.

Taxpayer Representatives:

2. Q. **Who may represent taxpayers during the administrative tax process?**

A. The following persons may represent taxpayers during the administrative tax process:

- (a) **Attorneys and certified public accountants**, including those licensed in other states, may represent taxpayers before the Tax Commission and before local taxing authorities. Those licensed in other states must be in good standing with their local licensing bodies.
- (b) **Enrolled agents**. An "enrolled agent" is a person who has demonstrated special competence in federal taxation by passing a written examination administered by the Internal Revenue Service or through employment with the Internal Revenue Service. The Director of Practice for the Internal Revenue Service should be contacted for more information.
- (c) **Tax return preparers** may represent clients at the examination level for returns prepared by them. A "tax return preparer" is anyone who prepares a return for another, regardless of whether or not the return must be signed by preparer. The "examination level" is any level prior to the Appeals Department of the Tax Commission or prior to the County Board of Appeal. Once an appeal goes beyond the examination level, a tax return preparer may no longer represent the taxpayer, unless the preparer is one of the other individuals listed in this section.
- (d) **Partners** may represent their partnership.
- (e) **Corporate officers** may represent their corporation.
- (f) **Fiduciaries** and their fulltime employees may represent the entity for which they are a fiduciary.
- (g) **Fulltime employees** may represent their employer.
- (h) **Individuals** may represent themselves, or a member of their immediate family if the individual is not compensated.

3. Q. **Are there any circumstances whereby a person other than one of the above may represent someone before the Tax Commission or before local taxing authorities?**

- A. Yes. The Tax Commission, if certain criteria are met, will allow persons hired before May 4, 1992 to represent taxpayers. If a taxpayer wishes to be represented by someone hired after May 4, 1992, he must request approval from the Tax Commission. (SEE SC REVENUE PROCEDURE #92-4 FOR MORE INFORMATION.)

Other Dealings With Taxing Authorities:

4. Q. **Other than his representative, who may a taxpayer have present at meetings, conferences, or hearings before the Tax Commission and local taxing authorities?**

- A. A taxpayer may have anyone present at meetings, conferences, or hearings before the Tax Commission and local taxing authorities. However, these individuals may not serve as a representative (i.e. make arguments or state positions on behalf of the taxpayer), except as permitted by Question & Answer #2. A taxpayer may also have anyone present as a witness.

Those attending any meeting, conference, or hearing may receive confidential information and listen to conversations between the taxpayer and the taxing authority if the taxpayer is present and consents. At any time, the taxpayer may request any person attending at his request to leave any meeting, conference, or hearing.

5. Q. **Who can supply information to the Tax Commission and local taxing authorities?**

- A. Anyone may provide information to the Tax Commission and to local taxing authorities.

6. Q. **Who can receive confidential tax information on a taxpayer from the Tax Commission or local taxing authorities?**

- A. Anyone who holds a valid Power of Attorney executed by a taxpayer may receive confidential tax information about the taxpayer. Also, anyone may receive confidential tax information about a taxpayer if the taxpayer is present and consents.

Taxing Authorities Representatives:

7. Q. **Who may represent the Tax Commission and local taxing authorities during the administrative tax process?**

- A. State and local government officials and employees may represent their offices or agencies.

Actions Against Representatives:

8. Q. **What disciplinary actions may the Tax Commission take if an authorized representative engages in unethical conduct?**

- A. The Tax Commission may suspend a representative from practice in the administrative tax process. This includes practice at both the State and local levels. The Commission will

notify the representative and give him/her the opportunity to be heard. In addition to suspension, the Commission may notify the Internal Revenue Service as well as any appropriate licensing authorities of its action.

See Sections 10.20 through 10.24 and 10.27 through 10.33 of United States Treasury Department Circular No. 230, as revised through March 1986 and S. C. Code Section 12-4-335(D) for duties and restrictions relating to the administrative tax process.

Treasury Department Circular No. 230 may be found in several federal income tax services. It may also be obtained from the Internal Revenue Service and found in federal depositories and in some public libraries. A list of federal depositories may be obtained through your public library.