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

SC REVENUE PROCEDURAL BULLETIN #01-11

- SUBJECT:** Transfer, Devise, or Distribution of Conservation Credit Under Code Section 12-6-3515 (Income Tax)
- EFFECTIVE DATE:** Applies to all periods open under the statute.
- SUPERSEDES:** All previous advisory opinions and any oral directives in conflict herewith.
- REFERENCES:** S. C. Code Ann. Section 12-6-3515 (Supp. 2000)
- AUTHORITY:** S. C. Code Ann. Section 12-4-320 (2000)
S. C. Code Ann. Section 1-23-10(4) (Supp. 2000)
SC Revenue Procedure #99-4
- SCOPE:** The purpose of a Revenue Procedural Bulletin is to provide procedural guidance to the public and Department personnel. It is a written statement issued to assist in the administration of laws and regulations by providing guidance that may be followed in order to comply with the law. A Revenue Procedural Bulletin does not have the force or effect of law, and is not binding on the public. It is, however, binding on agency personnel until superseded or modified by a change in statute, regulation, court decision, or advisory opinion.

This revenue procedural bulletin provides a method for a taxpayer to request from the Department approval of the transfer, devise, or distribution of the conservation tax credit allowed under Code Section 12-6-3515.

Effective June 1, 2001, Section 12-6-3515 of the South Carolina Code of Laws (“Code”) provides an income tax credit for landowners who voluntarily convey land or certain interests in land to a qualified conservation organization. A taxpayer who is entitled to and claims a federal charitable deduction for a gift of land for conservation or for a qualified conservation contribution donated after May 31, 2001, on a qualified real property interest located in South Carolina may claim an income tax credit equal to 25% of the deduction

attributable to the gift of land for conservation or to the qualified real property interest. The credit cannot exceed \$250 per acre of property to which the qualified conservation contribution or gift of land for conservation applies and the total credit claimed by a taxpayer may not exceed \$52,500 per year. For purposes of applying the per acre and per taxpayer limitations, the attribution rules of Internal Revenue Code Section 267 apply. The fair market value of all qualified donations must be substantiated by a “qualified appraisal” prepared by a “qualified appraiser” as defined under applicable federal law and regulations relating to charitable contributions.

For purposes of this credit, the term “qualified conservation contribution” and “qualified real property interest” have the same meaning as defined in Internal Revenue Code Section 170(h). The term “gift of land for conservation” is defined as a charitable contribution of fee simple title to real property conveyed for conservation purposes as defined in Internal Revenue Code Section 170(h)(4)(A) to a qualified conservation organization as defined in Internal Revenue Code Section 170(h)(3). Certain rules also exist for land that would otherwise be disqualified because of silvacultural and forestry practices.

Any unused credit may be carried forward until used. The unused credit may be transferred, devised, or distributed with or without consideration, to another taxpayer upon written notification to, and approval of, the transfer by the Department. The unused credit retains all its original attributes in the hands of the recipient. The gain on the sale or exchange of the credit is subject to South Carolina income taxes.

To obtain the approval of the Department to the transfer, devise, or distribution, the taxpayer must submit a written request to the following address:

Corporate Tax Section
Processing and Document Management Services
Department of Revenue
PO Box 125
Columbia, SC 29214

The request must contain the following information:

1. The complete name(s), address(es), telephone number(s) and the taxpayer identification number(s) of the transferor(s) of the credit;
2. The complete name(s), address(es), telephone number(s) and taxpayer identification number(s) of the transferee(s) of the credit;
3. The date the transfer, devise, or distribution of the credit will be effective;
4. The total credit available for the year;
5. The amount of the credit to be transferred to each transferee as well as the amount of

credit, if any, used by the transferor, and to be retained by the transferor;

6. A complete description of the consideration that was paid for the transfer, devise or distribution of the credit, and if the consideration was not in cash, check, or money order, the fair market value of the consideration;

7. A waiver of the right to claim that portion of the credit being transferred by the taxpayer who is transferring the credit. If the taxpayer transferring the credit is an S corporation, a partnership, or an LLC taxed as a partnership, the waiver must be executed by all shareholders, partners, or members, respectively, that would be otherwise be eligible to claim the credit. Any waiver must also include each shareholder's, partner's, or member's name, address, telephone number and taxpayer identification number. If the credit is to be transferred to an entity that will transfer the credit to another entity or to multiple entities, a waiver must be executed for all persons or entities that would be able to use the credit.

For questions concerning this revenue procedural bulletin, please contact Joy Causey at (803) 898-5777.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Elizabeth Carpentier
Elizabeth Carpentier, Director

December 7 _____, 2001
Columbia, South Carolina