

SC REVENUE RULING #03-6

SUBJECT: State Tax Add-Backs
(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 12-6-1130 (Supp. 2000)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (Supp. 2000)
S. C. Code Ann. Section 1-23-10(4) (Supp. 2000)
SC Revenue Procedure #03-1

SCOPE: The purpose of a Revenue Ruling is to provide guidance to the public and to Department personnel. It is a written statement issued to apply principles of tax law to a specific set of facts or a general category of taxpayers. **A Revenue Ruling is an advisory opinion; it does not have the force or effect of law and is not binding on the public.** It is, however, the Department's position and is binding on agency personnel until superseded or modified by a change in statute, regulation, court decision, or advisory opinion.

Background Information:

The purpose of this advisory opinion is to provide written guidance from the Department concerning certain taxes that are not allowed as a deduction from South Carolina taxable income. Initially, this project began as an informal response to a Bureau of National Affairs, Inc., survey of state tax departments covering numerous questions on corporate income tax related issues. Because of the number of questions received by the Department concerning whether state, local, and foreign taxes deductible under Internal Revenue Code Section 164 ("Taxes") are deductible for South Carolina purposes, the Department is issuing its responses to the BNA survey as an advisory opinion that reflects the Department's official position regarding these specific tax modifications.

Law:

Code Section 12-6-1130, providing for modifications to South Carolina taxable income, reads, in part:

South Carolina taxable income is computed by making modifications to deductions provided in the Internal Revenue Code as follows:

(2) The deduction for taxes permitted by Internal Revenue Code Section 164 is computed in the same manner as Section 164 except there is no deduction for state and local income taxes, or state and local franchise taxes measured by net income, or any income taxes, or any taxes measured by or with respect to net income...

State Tax Add-Back Survey Responses:

Below is a summary of selected taxes which are allowed or disallowed as deductions under SC Code Section 12-6-1130(2) in arriving at South Carolina’s taxable income, assuming they are allowed as a deduction under Internal Revenue Code Section 164.

	Deduction Allowed (no add-back required)	Deduction Disallowed (add-back required)
1. State income-based taxes imposed by South Carolina	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. State income-based taxes imposed by other states	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Local income-based taxes imposed by South Carolina local governments	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Local income-based taxes imposed by out-of state local governments	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5. Foreign taxes (other countries) Note: No response; it depends on facts not provided.	<input type="checkbox"/>	<input type="checkbox"/>
6. State franchise taxes based on capital stock or net worth	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. State gross receipts taxes	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Indiana Gross Receipts Tax	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Kentucky License Tax	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Michigan Single Business Tax	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. New Hampshire Business Profits Tax	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12. Ohio Franchise Tax - net worth portion	<input checked="" type="checkbox"/>	<input type="checkbox"/>
13. Ohio Franchise Tax - income-based portion	<input type="checkbox"/>	<input checked="" type="checkbox"/>
14. Texas Franchise Tax - net worth portion	<input checked="" type="checkbox"/>	<input type="checkbox"/>
15. Texas Franchise Tax - income-based portion	<input type="checkbox"/>	<input checked="" type="checkbox"/>
16. Washington Business and Occupation Tax	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. West Virginia Business and Occupation Tax	<input checked="" type="checkbox"/>	<input type="checkbox"/>

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Burnet R. Maybank
Burnet R. Maybank III, Director

December 10 _____, 2003
Columbia, South Carolina