
State of South Carolina
Department of Revenue
301 Gervais Street, P. O. Box 125, Columbia, South Carolina 29214
Website Address: <http://www.sctax.org>

SC REVENUE RULING #09-10

SUBJECT: State Tax Add-Backs
(Income Tax)

EFFECTIVE DATE: Applies to all periods open under the statute.

SUPERSEDES: SC Revenue Ruling #03-6 and all previous advisory opinions and any oral directives in conflict herewith.

REFERENCES: S.C. Code Ann. Section 12-6-1130 (Supp. 2008)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (Supp. 2008)
S. C. Code Ann. Section 1-23-10(4) (2008)
SC Revenue Procedure #09-3

SCOPE: The purpose of a Revenue Ruling is to provide guidance to the public and to Department personnel. It is an advisory opinion issued to apply principles of tax law to a set of facts or general category of taxpayers. It is the Department's position until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion.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. ("BNA"), 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 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. In addition, if a taxpayer elects, pursuant to Section 164, to deduct state and local sales taxes instead of state and local income taxes, the taxpayer may not deduct state and local sales and use taxes....

* * * *

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 ¹	<input type="checkbox"/>	<input 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) ²	<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 ³	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. District of Columbia Unincorporated Business Tax	<input type="checkbox"/>	<input checked="" type="checkbox"/>
9. Kentucky License Tax	<input checked="" type="checkbox"/>	<input type="checkbox"/>

¹ South Carolina does not have any local income-based taxes imposed by South Carolina local governments, but if it did, the deduction would be disallowed.

² The treatment of foreign taxes depend on facts.

³ Gross receipts taxes are not state sales and use taxes.

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| 10. Michigan Business Tax ⁴ – modified gross receipts tax | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 11. Michigan Business Tax – business income tax | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 12. New Hampshire Business Profits Tax | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 13. Ohio Commercial Activity Tax ⁵ | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 14. Texas Margin Tax ⁶ | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 15. Washington Business and Occupation Tax | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 16. West Virginia Business and Occupation Tax | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Ray N. Stevens

 Ray N. Stevens, Director

July 17 _____, 2009
 Columbia, South Carolina

⁴ The Michigan Business Tax is the successor to the Michigan Single Business Tax.

⁵ The Ohio Commercial Activity Tax is the successor to the Ohio Franchise Tax

⁶ The Texas Margin Tax is the successor to the Texas Franchise Tax.