



SC REVENUE RULING #92-9

**SUBJECT:** Administration of Bank Taxes  
(Bank Taxes)

**TAX ANALYST:** Deana West

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

**REFERENCE:** S.C. Code Ann. Section 12-11-20 (1976)  
S.C. Code Ann. Section 12-11-40 (Supp. 1991)  
S.C. Code Ann. Section 12-11-50 (Supp. 1991)  
S.C. Code Ann. Section 12-7-1410 (Supp. 1991)  
S.C. Code Ann. Section 12-54-30 (Supp. 1991)  
S.C. Code Ann. Section 12-54-70 (Supp. 1991)  
S.C. Code Ann. Section 12-54-190 (Supp. 1991)

**AUTHORITY:** S.C. Code Ann. Section 12-4-320 (Supp. 1991)  
SC Revenue Procedure #87-3

**SCOPE:** A Revenue Ruling is the Commission's official interpretation of how tax law is to be applied to a specific set of facts. A Revenue Ruling is public information and remains a permanent document until superseded by a Regulation or is rescinded by a subsequent Revenue Ruling.

Questions:

1. May an extension of time be requested for filing a South Carolina bank tax return?
2. May a bank file a South Carolina bank tax return on a basis other than a calendar year?
3. May a bank request a refund of tax overpayments made in tax years prior to 1991?

Facts:

As a result of a recent amendment to Code Section 12-11-50, questions have arisen concerning administrative procedures with respect to banks. The purpose of this document is to set forth guidelines that will assist the Commission and taxpayers in the interpretation of the amended law.

Prior to July 1, 1991, the tax collected from banks was distributed directly to the counties and municipalities based on the formula contained in Code Section 12-11-50. The vouchers detailing this distribution were prepared by the Tax Commission's Corporate Section and provided to the State Treasurer by May 1 of each year. Because of the time involved in analyzing the bank return and preparing the vouchers, the Tax Commission (1) required banks to file returns on a calendar year basis, (2) did not allow an extension of time to file a bank tax return, and (3) provided banks non-refundable "paper" credits to offset future tax due instead of refunds which resulted from an amended return or audit.

Pursuant to the newly enacted State Aid to Subdivisions Act, the taxes collected from banks are now deposited to the credit of the State's general fund and amounts are distributed to the counties and municipalities based on a formula contained in the Act.

#### Discussion:

Code Section 12-11-20 provides for a franchise tax based on net income on banks and reads:

A tax is imposed upon every bank engaged in business in the State which shall be levied, collected and paid annually with respect to the entire net income of the taxpayer doing a banking business within this State or from the sales or rentals of property within this State, computed at the rate of four and one half per cent of the entire net income of such bank or taxpayer.

Code Section 12-11-40 governs enforcement and administration of the franchise tax on banks and provides:

For the purpose of administration, enforcement, collection, liens, penalties, and other similar provisions, all of the provisions of Chapter 7 of this Title [Income Tax Act of 1926] that may be appropriate or applicable are adopted and made a part of this chapter for the enforcement and administration of this chapter, including the requirement to make declarations of estimated tax and make estimated tax payments.

The law, therefore, imposes a franchise tax based on net income on banks engaged in business in South Carolina and its administration and enforcement is governed by appropriate income tax provisions contained in Chapter 7 of Title 12.

Additionally, in addressing the questions at hand, we must also consider Chapter 54 of Title 12, entitled "Uniform Method of Collection and Enforcement of Taxes Levied and Assessed by South Carolina Tax Commission". Specifically, Code Section 12-54-190 provides that "[u]nless otherwise specified, the provisions of this chapter take precedence over all other related statutory provisions".

#### EXTENSION FOR FILING RETURN

Code Section 12-54-70 provides for an extension of time for filing a return and reads, in part:

(a) The Commission may, for good cause, allow further time for the filing of returns or remitting of tax due, required under the provisions of law administered by the Commission. The request for an extension may be granted only if the request is filed with the Commission on or before the day the return of the tax is due. A tentative return is required reflecting one hundred percent of the anticipated tax to be paid for the taxable period, to be accompanied by a remittance for the tentative tax liability....

In summary, the law allows the Tax Commission, for good cause, to grant extensions of time to file tax returns.

### TAXABLE YEAR FOR FILING RETURN

As previously stated, appropriate income tax provisions contained in Chapter 7 of Title 12 govern the enforcement and administration of bank taxes. Code Section 12-7-1410 provides rules for the acceptable accounting methods and periods of taxpayers and reads, in part:

- (a) A taxpayer's taxable year under this chapter must be the same as his taxable year for federal income tax purposes.
- (b) If a taxpayer's taxable year is changed for federal income tax purposes, his taxable year for purposes of this chapter is similarly changed without applying to the Commission, but the taxpayer must provide the Commission with a copy of the written permission received from the Internal Revenue Service....

The law, therefore, provides that a taxpayer's South Carolina tax year be the same as the tax year used for federal income tax purposes.

### REFUNDS OF OVERPAYMENTS

Code Section 12-11-50 provides for the payment of franchise tax on banks and reads:

The taxes provided for in this chapter must be paid to the commission as provided in Section 12-11-40 and the income tax paid under the provisions of this chapter must be deposited to the credit of the general fund of the State.

Code Section 12-54-30 provides for a refund or credit to the taxpayer in the event of an overpayment and reads, in part:

If the commission discovers on examination of a return or otherwise that the tax, penalty, or interest paid by any person is in excess of the amount legally due, the commission may order a refund or give credit for the overpayment.

Prior to its amendment in 1991, Code Section 12-11-50 specified how taxes provided for in this chapter would be distributed between the general fund, counties and municipalities. As a result,

it was administratively impractical for the Tax Commission to allow refunds once the tax was distributed. The recent amendment to Code Section 12-11-50, however, has relieved this administrative burden. Therefore, the Commission, when deemed appropriate, may order refunds of bank tax overpayments.

In light of the South Carolina Supreme Court case Bass v. State of South Carolina, 395 S.E. 2d 171 (1990), taxpayers seeking a claim for refund should refer to SC Revenue Ruling #91-10 for a discussion of their appeal rights.

Conclusions:

1. An extension of time may be requested for filing a South Carolina bank tax return, in accordance with Code Section 12-54-70. An extension form must be filed with the Tax Commission on or before the original due date of the return. South Carolina does not recognize a corporate extension issued by the Internal Revenue Service or any other State.
2. The accounting period for which the South Carolina bank tax return is filed must be the same as that used for federal income tax purposes, as provided in Code Section 12-7-1410.
3. The non-refundable "paper" credit system will be discontinued, therefore, banks may request a refund of tax overpayments made in tax years prior to 1991, pursuant to Code Section 12-54-30. These refund requests are subject to the provisions set forth in SC Revenue Ruling #91-10.

For further information, contact the Tax Commission's Corporate Section at 803-737-4705.

SOUTH CAROLINA TAX COMMISSION

s/A. Crawford Clarkson Jr.

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A. Crawford Clarkson, Jr., Chairman

s/T. R. McConnell

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T. R. McConnell, Commissioner

s/James M. Waddell Jr.

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James M. Waddell, Jr., Commissioner

Columbia, South Carolina  
July 21, 1992