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SC TECHNICAL ADVICE MEMORANDUM #88-10

TO: Mr. Marvin Davant, Director
Field Services Division

FROM: John Swearingen, Manager
Tax Policy and Procedures Department

DATE: March 24, 1988

SUBJECT: Income Tax: Credit for Tax Paid to Another State

REFERENCE: S.C. Code Ann. Section 12-7-1240 (Supp. 1987)
S.C. Code Ann. Section 12-7-440(a) (Supp. 1987)

AUTHORITY: S.C. Code Ann. Section 12-3-170 (1976)
SC Revenue Procedure #87-3

SCOPE: A technical Advice Memorandum is a temporary document issued to an individual within the Commission, upon request, and it applies only to the specific facts or circumstances related in the request. Technical Advice Memoranda have no precedential value and are not intended for general distribution.

Question:

May taxpayers who are married filing jointly for South Carolina, file a joint Schedule TC to claim credit for taxes paid to another state on separate returns?

Facts:

Taxpayers A and B will file a joint South Carolina individual income tax return for 1987. They are both residents of South Carolina and both earned wages in North Carolina during 1987.

They are required to file separate North Carolina returns. The Commission, in previous years, has required separate tax credit computations for taxpayers filing separately in other states.

Discussion:

Section 12-7-1240 provides that:

Whenever an individual who is a resident of South Carolina is liable for income tax in another state on account of (1) income earned from personal services rendered in the other state, or (2) income received through a nonresident fiduciary, the Tax Commission shall credit the amount of income tax payable for the income year by the taxpayer under this Title with the amount of tax paid by the taxpayer to another state on South Carolina taxable income. In no case shall the credit herein allowed exceed an amount equivalent to the proportion of South Carolina Income Tax attributable to the South Carolina taxable income as determined in accordance with Section 12-7-410, as modified by Sections 12-7-430 and 12-7-435 and taxed by another state.

Section 12-7-440(a) provides:

In all cases where a husband and wife file a joint South Carolina income tax return, the determination of South Carolina's taxable income must, unless otherwise provided, be made as if husband and wife were one individual taxpayer.

In the case of A and B, they are both earning income in North Carolina and paying taxes in North Carolina, thus they are both eligible for the tax credit. For South Carolina purposes, they are filing jointly and compute one South Carolina taxable income. Their tax credit computation should be made based on how they file for South Carolina. Thus, they will add the portions of their incomes taxed separately by North Carolina and compute the credit on one Schedule TC. The tax paid to North Carolina will be their total North Carolina liability.

Conclusion:

Taxpayers who are married filing jointly for South Carolina should file a joint Schedule TC to claim credit for taxes paid to another state on separate returns.