

Preparer Electronic Filing Mandate Frequently Asked Questions

What does the law state?

SECTION 12-54-250

(F)(1) A tax return preparer who prepares one hundred or more returns for a tax period for the same tax year shall submit all returns by electronic means where electronic means are available. Where electronic means are not available to file the return, but 2D barcode is available, the preparer must use 2D barcode. If a taxpayer checks a box on his return indicating a preference that his return is to be filed by another means, the preparer may submit that return by another means.

(2) The department shall include a notice of this requirement in its form instructions and in the forms area of its website.

(3) For the purposes of this subsection, tax return preparer means the business entity and not the individual location or individual completing the return.

(4) If compliance with this section is a substantial financial hardship, a tax return preparer may apply in writing to the department to be exempted from these requirements. The department may grant an exemption for no more than one year at a time.

(5) A person who fails to comply with the provisions of this section may be penalized in an amount to be assessed by the department equal to fifty dollars for each return.

Who is required to file electronically?

Any preparer that prepares 100 or more returns for a tax period for the same year is required to submit those returns electronically where electronic means are available. Where electronic means are not available to file the return, but 2D barcode is available, the preparer must use 2D barcode. This number includes any SC tax return that is prepared, regardless of tax type.

What is the definition of a tax preparer?

For the purposes of this section, tax return preparer means the business entity and not the individual location or individual completing the return.

How are 100 returns determined?

All original returns for the same tax type and period should be used to determine the number of returns. Examples include 100 January Monthly Sales returns, 100 annual Individual Income Tax returns or 100 Employer Withholding Quarterly returns.

Are there any forms that are not considered a "return" for the purpose of this mandate?

Yes, the mandate does not apply to the following commonly used forms: extension requests, W2s, 1099s, amended returns and payment coupons and vouchers.

What is the effective date of the mandate?

While the bill's initial effective date was for the 2007 tax year, South Carolina legislators delayed the date for imposing penalties under this section effective for returns due to be filed after December 31, 2008.

What if taxpayers do not want their returns filed electronically?

A taxpayer can refuse to have his return filed electronically. While the law states the taxpayer can check a box on his return for this situation, the SC forms do not currently contain this check box. We recommend the tax preparers obtain a signed statement from the taxpayer and retain this statement in their records.

What if the tax return cannot be electronically filed because of some federal and/or state policies and/or technical situations?

We recommend the tax preparers retain in their records information as to why the return could not be electronically filed.

Can a tax preparer be exempt from the mandate?

If the tax preparer will suffer a substantial financial hardship in complying with this mandate, he may apply in writing to the department requesting exemption. The substantial financial hardship exemption request is not a preprinted form. It is a written document composed by the tax preparer. If approved, the exemption will be in effect for one calendar year.

Where should hardship exemption requests be mailed?

Electronic Filing
Mandate Exemption Application
PO Box 125
Columbia, SC 29214

What if the software used by the preparer does not allow electronic filing?

A mandated preparer must either work with the current vendor to become compliant or select another approved software package that allows electronic filing for South Carolina. Before selecting software, a mandated preparer must ensure that it supports the returns and schedules that need to be filed. A list of software vendors approved by SC for electronic filing is available on the Electronic Services page of our website. www.sctax.org

How long is the mandate in effect?

The statute requires that a tax return preparer who prepares one hundred or more returns for a tax period for the same tax year submit all returns by electronic means; i.e., as long as the preparer falls within the requirements of the statute, he must comply.

Are preparers located outside of South Carolina subject to the mandate?

Yes. As long as that preparer prepares one hundred or more SC state tax returns for a tax period, the preparer is required to comply with this electronic filing mandate.

Are volunteer preparers subject to the mandate?

The mandate applies only to paid preparers.

Will South Carolina penalize tax preparers who are not in compliance with this mandate?

For returns filed after December 31, 2008, the statute provides for a \$50 penalty for each return not filed electronically.

What returns are allowed to be filed with South Carolina electronically and by 2D Bar Code?

A listing of returns that can be filed electronically and by 2D Bar Code is available on the Electronic Services page of our website. www.sctax.org