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SC INFORMATION LETTER #89-30

TO: Vicki Jinnette
Public Information Director

FROM: John Swearingen, Manager
Tax Policy and Procedures Department

DATE: August 28, 1989

SUBJECT: Long-Term Capital Gains Refund

REFERENCE: S.C. Code Ann. Section 12-7-460 (Law Co-Op; Supp. 1988)
As Modified by Amendments

SUPERSEDES: This information letter modifies S.C. Information Letter #88-15, S.C. Information Letter #89-1 and Private Letter Ruling #89-5 to the extent the amendments to Section 12-7-460 changed the dates the capital gains contracts must have been entered to June 22, 1987 and delayed the actual refund dates by 1 year.

AUTHORITY: S.C. Code Ann. Section 12-3-140 (1976)
SC Revenue Procedure #87-3

SCOPE: An Information Letter is a temporary document issued for the purpose of disseminating general tax information and to respond to technical questions from within the Commission which are not related to a specific set of facts.

Section 12-7-460, which previously allowed a long-term capital gains tax refund for taxpayers who recognized a long-term capital gain in 1987 or January, 1988, has been amended.

The amendments require that the gain must have been recognized in 1987, pursuant to a written contract of sale executed between January 1, 1987 and June 22, 1987. The date the contract was signed will determine if it qualifies.

The amendments also delay the actual refund dates to two equal annual installments beginning with the first refund due to be paid when refunds are paid for the 1990 taxable year. For example, a calendar year taxpayer filing a 1990 return on April 15, 1991 would receive half the refund after April 15, 1991 and the other half in 1992.

In SC Private Letter Ruling #89-5, the Commission advised a taxpayer that the refund could be used as estimated payments for 1989 as the refund originally was to be allowed in 1990. Any taxpayer's that may be subject to a penalty for underpayment of 1989 estimated taxes because of the changes to the capital gains refund may request a waiver of the penalty.

Taxpayers requesting a waiver should attach Form SC 2210 to their 1989 return and write "Waiver/Capital Gains Refund" in the left margin on the form. The Commission will waive the underpayment penalty where appropriate pursuant to Section 12-54-160 and SC Revenue Procedure #87-2.