State of South Carolina
Department of Revenue
Office of General Counsel
301 Gervais Street, P. O. Box 12265, Columbia, South Carolina 29211
Website Address: http://www.sctax.org

SC REVENUE RULING #05-11

SUBJECT:	License Fee Based on Capital Stock and Paid-In or Capital Surplus – Computation and Proration Questions
EFFECTIVE DATE:	Applies to all periods open under the statute.
MODIFIES:	SC Revenue Procedure #98-1
REFERENCES:	S. C. Code Ann. Section 12-20-50 (2000) S. C. Code Ann. Section 12-20-60 (2000) S. C. Code Ann. Section 12-20-80 (2000) S. C. Code Ann. Section 12-20-100 (2000) S. C. Code Ann. Section 12-20-110 (2000) S. C. Code Ann. Section 12-2-25(B) (Supp. 2003) S. C. Code Ann. Section 12-6-4410 (2000)
AUTHORITY:	S. C. Code Ann. Section 12-4-320 (Supp. 2000) S. C. Code Ann. Section 1-23-10(4) (Supp. 2000) SC Revenue Procedure #03-1
SCOPE:	The purpose of a Revenue Ruling is to provide guidance to the public and to Department personnel. It is a written statement issued to apply principles of tax law to a specific set of facts or a general category of taxpayers. **A Revenue Ruling is an advisory opinion; it does not have the force or effect of law and is not binding on the public.** It is, however, the Department's position and is binding on agency personnel until superseded or modified by a change in statute, regulation, court decision, or advisory opinion.

Introduction

South Carolina's license fee, or franchise tax, is imposed on the privilege of doing business as a corporation in South Carolina to compensate South Carolina for protection and opportunities commensurate to doing business in South Carolina. Unless otherwise exempted, every corporation required to file an annual report is required to pay an annual license fee. The license fee is paid in advance of the taxpayer's income tax year.

The purpose of this document is to answer some frequently asked questions about the license fee base and to provide examples illustrating the computation of the license fee for short periods based on capital stock and paid-in or capital surplus.

CAVEAT: Most corporations pay the license fee based on capital. Only specifically enumerated companies, such as waterworks companies, power companies, electric cooperatives, gas companies, telephone companies, and express companies, pay the license fee based on gross receipts and property. Accordingly, the scope of this advisory opinion is limited to the license fee imposed by Code Section 12-20-50.

Questions

1. Q. What is the measure of the license fee base?

   A. The type of license fee a taxpayer pays depends upon the taxpayer's type of business. The measure of the license fee is based upon either:

   1. Capital stock and paid-in or capital surplus of the corporation as set forth in Code Section 12-20-50 or

   2. South Carolina gross receipts from regulated business and property used in the conduct of business as set forth in Code Section 12-20-100.

2. Q. Who is subject to the license fee?

   A. Generally, every domestic corporation, every foreign corporation qualified to do business in South Carolina, and any other corporation required by Section 12-6-4910 to file an income tax return must file an annual report with, and pay a license fee to, the Department.

   The following organizations, companies, and associations are **not** subject to the annual report or the license fee requirements in Chapter 20 of Title 12 because of a specific statute, because they are not organized as a corporation and are not taxed under Subchapter C or S provisions of the Internal Revenue Code (see Code Sections 12-20-20, 12-20-110, and 12-6-4910), or because they do not have nexus with South Carolina:

   1. A Limited Liability Company ("LLC) that is not taxed as a corporation. An LLC taxed as a corporation must file an annual report and pay a license fee.

   2. A corporation whose only contact with South Carolina is registration with the Secretary of State (*i.e.*, a foreign corporation is not doing business in South Carolina). In rare situations where a corporation that is legally qualified to do business in South Carolina is not doing business in South Carolina (*i.e.*, it does not have nexus with South Carolina for license fee purposes), it should

notify the Department's Corporate Section to avoid a computer generated failure to file notification.

3. A nonprofit corporation organized pursuant to Chapter 31 (South Carolina Nonprofit Corporation Act of 1994) of Title 33 exempt from income taxes pursuant to Section 501 of the Internal Revenue Code of 1986.

4. A volunteer fire department and rescue squad.

5. A cooperative organized pursuant to Title 33 of the South Carolina Code.

6. A bank as defined in Code Section 12-11-10.

7. A savings and loan association as defined in Code Section 12-13-10.

8. An insurance company or association including any fraternal, beneficial, or mutual protection insurance company.

9. A foreign corporation whose entire income is not included in gross income for federal income tax purposes due to any treaty obligation of the United States.

10. Nonprofit corporations organized pursuant to Chapter 36 (Corporations Not for Profit Financed by Federal or State Loans) of Title 33 for the purpose of providing water supply and sewerage disposal or a combination of those services.

11. A homeowners association as defined in Internal Revenue Code Section 528(c)(1).

12. Entities that are <u>not</u> organized as a corporation <u>and</u> are taxed under provisions of the Internal Revenue Code other than Subchapters C or S. Examples of exempt entities, if they are not organized as a corporation, include:

    a. Real estate investment trusts ("REITs") as defined in Internal Revenue Code Section 856 and taxed under Internal Revenue Code Section 857 if organized as a trust under local law.

    b. Regulated investment companies ("RICS") as defined in Internal Revenue Code Section 851.

    c. Real Estate Mortgage Investment Conduits ("REMICs") as defined in Internal Revenue Code Section 860D.

    d. Political organizations as defined in Internal Revenue Code Section 527.

13. Public corporations. Municipalities and counties are considered to be public corporations. A Redevelopment Commission formed under the Community Development Law of Chapter 10 of Title 31 to redevelop certain blighted areas is also considered a public corporation.

3. Q. How much is the license fee?

   A. The annual license fee is $15 plus $1 for each $1,000, or fraction of a $1,000, of capital stock (common and preferred stock) and paid-in or capital surplus of the corporation as shown by the records of the corporation on the first day of the taxable year in which the report is filed. The minimum license fee is $25.

4. Q. When is the license fee due?

   A. Except for the initial license fee, the license fee is due on or before the original due date for filing the annual report and is paid in advance of the taxpayer's income tax year. For example, a calendar year taxpayer filing a 2004 corporate income tax return for the year ending December 31, 2004 on March 15, 2005, will include a license fee for the calendar year 2005 based on the capital stock and paid-in or capital surplus as of January 1, 2005 (this is almost always the same as the capital stock and paid-in or capital surplus amount reported on the December 31, 2004 balance sheet.) An extension of time does not extend the time for paying the license fee due.

   <u>Initial license fee</u>. The initial license fee is $25 and is generally paid to the Secretary of State at the time the articles of incorporation or application for certificate of authority by a foreign corporation is filed with the Secretary of State. A corporation that does not register with the Secretary of State pays the initial license fee with the Department on or before 60 days after initially doing business, or using a portion of its capital in South Carolina. See Code Sections 12-20-20, 12-20-30, and 12-30-40 for more information on the annual report and the initial license fee.

   <u>Subsequent license fees</u>. Subsequent license fees are imposed for the privilege of doing business in South Carolina and are paid a year in advance of the taxpayer's income tax year. For example, the income tax return for the calendar year ending December 31, 2004 includes an annual license fee for the calendar year 2005. Subsequent license fees are due on or before the 15th day of the third month following the end of the taxpayer's tax year, unless otherwise provided. Subsequent license fees are computed on the appropriate tax form, such as Part II of Form SC1120, "South Carolina C Corporation Income Tax Return," or Form SC1120S, "S Corporation Income Tax Return." See Code Section 12-20-20(B).

5. Q. What is the base of the fee?

A. The license fee is based on the capital stock and paid in or capital surplus on the taxpayer's applicable financial statement balances on the first day of the taxable year the annual report is filed (this is almost always the ending balances on the last day of the immediately preceding income tax year.) For example, a calendar year taxpayer filing a 2004 corporate income tax return for the year ending December 31, 2004 will include a license fee for the calendar year 2005, based upon capital and paid in surplus as of January 1, 2005, which is almost always the balance on December 31, 2004.

The terms "paid in or capital surplus," "earned surplus," and "applicable financial statement" are defined in Code Section 12-20-50. These definitions are as follows:

1. "Paid in or capital surplus" means the entire surplus of a corporation other than earned surplus including, but not limited to, amounts charged against earned surplus and credited to other surplus accounts, donated capital, amounts representing the increase in valuation of assets made upon a revaluation of the company's assets, and amounts credited to any surplus account other than earned surplus as a result of a merger or acquisition regardless of whether the amount credited to the surplus account was transferred from an earned surplus account. See Code Section 12-20-50(A).

2. "Earned surplus" means that portion of the surplus of a corporation equal to the balance of its net profits, income, gains, and losses from the date of incorporation or from the latest date when a deficit was eliminated by application of its capital surplus, after deducting subsequent distributions to shareholders and transfers to stated capital and capital surplus to the extent that such distributions and transfers are made out of earned surplus. See Code Section 12-20-50(A).

3. The term "applicable financial statement" is defined in Code Section 12-20-50(B). It is generally a statement required to be filed with the Securities and Exchange Commission or a certified audited balance sheet to be used for the purposes of a statement or report. See Code Section 12-20-50(B)(2) for other types of appropriate financial statements upon which to base the license fee if one of the above does not exist.

The computation of the license fee is mechanical and straightforward once the accounting concepts for the balance sheet are understood. The balance sheet provides beginning and end of year balances for total assets, liabilities, and shareholder's equity. Since retained earnings is not included in the computation of the license fee, the license fee base is determined by subtracting retained earnings from shareholder equity.

For accounting and tax purposes, shareholder's equity is the sum of common stock, preferred stock, additional paid in capital, retained earnings, and adjustments less treasury stock. Note: The effect of treasury stock on the computation of the license fee is sometimes misunderstood. Since for accounting and tax purposes, shareholder's equity has been reduced by the amount of treasury stock, the computation of the license fee base does not include an "add back" of treasury stock.

6. Q. Can a multistate business apportion its license fee?

   A. When a corporation does business partly within and partly without South Carolina or uses its capital partly within and partly without South Carolina, the license fee is apportioned using the same apportionment ratio used for income tax purposes. The $25 minimum license fee, however, may not be apportioned. See Code Section 12-20-60.

7. Q. How is the license fee computed for taxpayers filing a South Carolina "consolidated" (combined) return?

   A. Corporations meeting the requirements of Code Section 12-6-5020 are allowed to file a "consolidated" South Carolina income tax return that requires income and losses to be computed separately for each entity based on the proportion of business that each taxpayer conducts in South Carolina.

   When a consolidated return is filed, the license fee computation is as follows:

   1. If the license fee is based on capital stock and paid in capital, then it is measured by the total capital and paid in or capital surplus of each corporation considered separately without offset for investment of one corporation in the capital or surplus of another corporation in the group. The minimum license fee of $25 applies to each corporation in the consolidated group. See Code Section 12-20-70.

   2. Since the license fee is generally computed on the corporate income tax return, corporations filing a consolidated return should attach a schedule to the South Carolina income tax return filed in the name of the parent that shows the license fee computation for each entity participating in the consolidated return. A separate income tax return should not be filed to pay the license fee of each entity. One payment may be remitted to the Department for the total income tax and license fee liabilities of all entities participating in the consolidated return. Also, note that an annual report is required to be attached to the income tax return for each corporation included in the consolidated return.

8. Q. How is the license fee computed for a Qualified Subchapter S Subsidiary?

   A. For tax purposes, South Carolina treats the assets, liabilities, income, and deductions of a Qualified Subchapter S Subsidiary (QSub) as it is treated for federal income tax purposes. Therefore, for South Carolina income tax, license fee, and annual report purposes, a QSub is treated as a disregarded entity (*i.e.*, for South Carolina tax purposes, including the determination of nexus, the parent and all QSubs will be treated as one entity; the parent and each QSub are not considered separately for income tax, license fee, or nexus purposes.) Code Section 12-2-25(B)(2).

   Accordingly, the parent S corporation files a single SC Form 1120S, "S Corporation Income Tax Return," in the name of the parent; a separate SC1120S is not filed for each entity. The parent computes the combined items of income, deduction, credit, and capital stock base using the apportionment ratio(s) of the entire entity (*i.e.*, the separate attributes of each entity are disregarded.) Simply stated, the items of income, deduction, credit, and capital stock of the QSubs are treated as if the QSubs are divisions of the S Corporation, not subsidiaries.

   For example, assume a calendar year parent operating in South Carolina makes valid QSub elections; QSub 1 has 100% activity in South Carolina; QSub 2 has 0% activity in South Carolina; and the "combined" entity has a 40% South Carolina apportionment ratio that is used for both income tax and license fee purposes, and shows on its balance sheet capital and paid in surplus of $200,000. (Note: The parent and each QSub do not compute and apply separate apportionment ratios.) The South Carolina license fee for 2004 of $95 is computed based on the capital stock and paid in or capital surplus of the entity as of January 1, 2004 (this is the same amount shown on its December 31, 2003 balance sheet) as follows: $200,000 total capital stock and paid in or capital surplus of the entity x 40% South Carolina apportionment ratio x .001 + $15.

9. Q. How is the license fee computed on initial returns?

   A. The initial license fee is $25. There is no proration of the license fee for short periods due to initial returns. Code Section 12-20-80(B).

10. Q. Is a license fee due on a final income tax return?

    A. A license fee is not due with a final income tax return since the license fee is paid a year in advance of the income tax year.

11. Q. Can the license fee be prorated for short taxable years?

    A. The license fee can be prorated for short tax periods due to a change in accounting period.

12. Q. How is the license fee prorated for a change in accounting period?

A. Code Section 12-20-80 provides for the proration of the license fee. This computation is as follows:

1. If a corporation has a change in its accounting period that results in the filing of an income tax return for less than 12 months, then the license fee due with the short period return is prorated by dividing the annual license fee by 12 months and multiplying the result by the number of months in the short period.

2. Each part of a month is considered a full month.

3. Any prorated license fee may not be less than $25.

Examples – Code Section 12-20-50 License Fee Calculation for Short Periods

Examples best explain the calculation of the license fee imposed under Code Section 12-20-50 for short periods. Unless otherwise indicated, the following examples assume:

1. The taxpayer is doing business solely in South Carolina (*i.e.,* the South Carolina license fee apportionment ratio is 100%.)

2. The ending balances of the capital stock and paid-in or capital surplus accounts on the applicable financial statements are the same on the last day of the immediately preceding income tax year as the first day of the taxable year in which the annual report is filed.

3. In the rare situation where the capital structure on which the license fee is based is different from the capital reported on the applicable financial statement that is on Form 1120, "U. S. Corporation Income Tax Return," Schedule L, "Balance Sheet Per Books," the taxpayer should attach a schedule to the South Carolina tax return to support the license fee computation.

Example 1: **Change in Tax Year.** The corporation is a calendar year corporation paying the license fee based on capital stock and paid in capital of $50,000. There is no change in the capital stock and paid in capital accounts during this time. In 2003, the taxpayer timely requests from the Internal Revenue Service a change in tax year to May 31st. It is important to remember that the license fee is paid a year in advance of the income tax year.

1. Full Year Computation - The corporation files a December 31, 2002, income tax return March 15, 2003, and pays a license fee of $65 for the calendar year 2003 ($50,000 x .001 + $15).

2. Short Year Computation - The corporation has a change in accounting period and changes its tax year end to May 31st. As a result, a short period income tax return for January 1, 2003, through May 31, 2003, is filed August 15, 2003, along with a prorated license fee of $27 based on the capital stock and paid in capital of the corporation on June 1, 2003, of $50,000. The $27 license fee due with the short period return is calculated as follows: ($50,000 x .001 + $15) x 5/12.

   Note: The South Carolina income tax form does not provide for proration of the license fee; a schedule must be attached to the income tax return computing the prorated license fee. The license fee paid with the 2002 income tax return filed on March 15, 2003, is not credited or refunded to the taxpayer.

3. Full Year Computation - The fiscal year corporation files an income tax return for the tax year ending May 31, 2004, on August 15, 2004, and pays a license fee of $65 for the fiscal year June 1, 2004 through May 31, 2005, based on $50,000 of capital as of June 1, 2004 ($50,000 x .001 + $15.)

Example 2: Short Period Ends During the Month. The stock of Corporation X is acquired by Corporation Y on September 14, 2003. The corporations are all calendar year taxpayers. Corporation Y does not have nexus with South Carolina. For federal purposes, Corporation X is required to file two short period returns for the following periods: (1) January 1, 2003 through September 14, 2003 and (2) September 15, 2003 through December 31, 2003.

Reminder: Code Section 12-20-80(A) provides that each part of a month is considered a full month for purposes of prorating the license fee (*i.e.,* the license fee is not computed based on the number of days in a short period.)

1. Short Year 1 Computation – Time of Acquisition. On September 14, 2003, Corporation X is acquired and required to join the new consolidated group of Corporation Y. As a result, Corporation X files a short period income tax return for January 1, 2003 through September 14, 2003, on December 15, 2003, along with a prorated license fee of $536 based on the capital stock and paid in capital of the corporation on September 15, 2003, of $700,000, and the number of full and partial months in the short period. The $536 license fee due with the short period return is calculated as follows: ($700,000 x .001 + $15) x 9/12.

2. Short Year 2 Computation – New Consolidated Group Y. Corporation X's tax year did not change as a result of change in ownership. Corporation X's short period income tax return for September 15, 2003 through December 31, 2003, is filed March 15, 2004, along with a prorated license fee of $330 based on the capital stock and paid in capital of the corporation on January 1, 2004 of $975,000, and the number of full and partial months in the short period. The $330 license fee due with the short period return is calculated as follows: ($975,000 x .001 + $15) x 4/12.

<u>Example 3:</u> **<u>Every Prorated License Fee Must be $25 or More.</u>** Based on a change from a calendar year end to a fiscal year end of February, Corporation X files a 2 month short period South Carolina income tax return for January 1, 2004 through February 29, 2004, on May 15, 2004. The corporation pays the license fee based on capital stock and paid in capital of $95,000. There is no change in the capital stock and paid in capital accounts during this time.

Short Year Computation - Corporation A files a 2 month short period South Carolina income tax return for January 1, 2004 through February 29, 2004, on May 15, 2004, along with a minimum prorated license fee of $25 based on the capital stock and paid in capital of the corporation on March 1, 2004, of $95,000, and the number of full months in the short period. Although the license fee due with the short period return is actually calculated as $18 as follows ($95,000 x .001 + $15) x 2/12, the $25 minimum license fee established in Code Section 12-20-50(A) must be paid.

<u>Example 4:</u> **<u>Statutory Merger.</u>** Corporation A and Corporation B are calendar year taxpayers. Corporation A merges into Corporation B pursuant to a statutory merger under an Internal Revenue Code §368(a)(1)(A) reorganization on October 31, 2003. For federal income tax purposes, Corporation A must file a short period return for 10 months and Corporation B, the surviving corporation, must file a full calendar year income tax return. The South Carolina income tax return is due at the same time as the federal income tax return.

1. Pre Merger Full Year - Corporation A and Corporation B each file an income tax return for the calendar year ended December 31, 2002, on March 15, 2003, and each pays a full year license fee for the 2003 calendar year.

2. Final Year Corporation A - Corporation A files a final income tax return for the year ended October 31, 2003, on January 15, 2004. The license fee is paid a year in advance of the income tax year; no license fee is due since this is Corporation A's final income tax return. Further, no portion of the full year license fee paid for the 2003 calendar year (see item 1 above) is refunded or credited to the taxpayer.

3. Full Year Corporation B - Corporation B, the surviving corporation, files an income tax return for the calendar year ending December 31, 2003, on March 15, 2004, and pays a full year license fee for the 2004 calendar year based on the capital stock and paid in capital of the entire merged corporation as of January 1, 2004.

<u>Example 5:</u> **<u>Acquired Company is Required to Leave One Federal Consolidated Group and Join a New Consolidated Return Group; Acquiring Corporation Has Same Tax Year.</u>** Corporation A is a calendar year taxpayer which files a separate South Carolina tax return but is a member of a federal consolidated return group for the tax year January 1, 2002 through December 31, 2002. The license fee for the 2003 tax year is paid based on capital stock and paid in capital of $150,000. On February 28, 2003, the stock of Corporation A was purchased by an unrelated corporation. For federal income tax purposes, two short period returns are filed as a result of Corporation A's departure from the federal consolidated group – (1) a 2 month return for the period January 1, 2003 through February 28, 2003, where the taxpayer was included in the federal consolidated group, and (2) a 10 month return for the period March 1, 2003 through December 31, 2003, where the taxpayer filed a separate corporate return. Code Section 12-6-4410 requires that a taxpayer's tax year must be the same for South Carolina purposes as it is for federal purposes; South Carolina also requires income tax returns and pro-rated license fees be filed for the two short periods.

1. Full Year Computation – Pre Departure from Federal Consolidated Group. Corporation A files an income tax return for the calendar year ended December 31, 2002, on March 15, 2003, and pays a license fee of $165 for calendar year 2003 computed as follows: ($150,000 x .001 + $15).

2. Short Year 1 Computation – Period Included in Federal Consolidated Group. On February 28, 2003, the stock of Corporation A is purchased by an unrelated corporation. Because of Corporation A's departure from the federal consolidated group, a short period consolidated federal return is required. As a result, Corporation A files a 2 month short period South Carolina income tax return for January 1, 2003 through February 28, 2003, on March 15, 2004, along with a prorated license fee of $28 based on the capital stock and paid in capital of the corporation on March 1, 2003, of $150,000, and the number of full months (2) in the short period. The $28 license fee due with the short period return is calculated as follows: ($150,000 x .001 + $15) x 2/12.

3. Short Year 2 Computation – New Ownership. Although Corporation A's ownership changed, its tax year remained December 31st. Corporation A's short period South Carolina income tax return for March 1, 2003 through December 31, 2003, is filed March 15, 2004, along with a prorated license fee of $138 based on the capital stock and paid in capital of the corporation on January 1, 2004 of $150,000, and the number of full months (10) in the short period. The $138 license fee due with the short period return is calculated as follows: ($150,000 x .001 +$15) x 10/12.

Example 6: Acquired Company is Required to Leave One Federal Consolidated Group and Join a New Consolidated Return Group; Tax Year is Changed to Acquiring Corporations. Corporation A is a fiscal year taxpayer which files a separate South Carolina income tax return but is a member of a federal consolidated return group for the tax year April 1, 2002 through March 31, 2003. Its license fee for the period April 1, 2003 through March 31, 2004 is based on capital stock and paid in capital of $300,000. On September 30, 2003, Corporation A was acquired by Corporation X; is required to join Corporation X's consolidated federal return group; and is required to change it's year end to December 31. Because of the federal consolidated rules, Corporation A files two short period returns – (1) a 6 month return for the period April 1, 2003 through September 30, 2003, and (2) a 3 month return for the period October 1, 2003 through December 31, 2003. Although South Carolina has not adopted the federal consolidated return rules, South Carolina Code Section 12-6-4410 requires that a taxpayer's tax year must be the same for South Carolina purposes as it is for federal purposes; South

Carolina also requires income tax returns and pro-rated license fees be filed for the two short periods. For purposes of this example, it is assumed that the capital stock and paid in capital amounts increase as indicated.

1. Full Year Computation – Pre Acquisition. Corporation A files a March 31, 2003, income tax return on June 15, 2003, and pays a license fee of $315 for the fiscal year April 1, 2003 through March 31, 2004 ($300,000 x .001 + $15).

2. Short Year 1 Computation – Time of Acquisition. On September 30, 2003, Corporation A is acquired and required to join the federal consolidated group of Corporation X. As a result, Corporation A files a 6 month short period income tax return for April 1, 2003 through September 30, 2003, on December 15, 2003, along with a prorated license fee of $170 based on the capital stock and paid in capital of the corporation on October 1, 2003, of $325,000, and the number of full months in the short period. The $170 license fee due with the short period return is calculated as follows: ($325,000 x .001 + $15) x 6/12.

3. Short Year 2 Computation – Change to New Consolidated Group X's Year End. Corporation A's tax year changed to December 31st as a result of change in ownership. Corporation A's short period income tax return for October 1, 2003 through December 31, 2003, is filed March 15, 2004, along with a prorated license fee of $91 based on the capital stock and paid in capital of the corporation on January 1, 2004, of $350,000, and the number of full months in the short period. The $91 license fee due with the short period return is calculated as follows: ($350,000 x .001 +$15) x 3/12.

4. Full Year Computation – Post Acquisition. Corporation A files an income tax return for the calendar year ended December 31, 2004 on March 15, 2005, and pays a license fee of $415 for the 2005 calendar year, based on its capital of $400,000 as of January 1, 2005. The $415 is calculated as follows: ($400,000 x .001 + $15).

Example 7: Capital Contribution/Issuance of Common or Preferred Stock on the First Day of Tax Year. The stock of Corporation X is acquired by Corporation Y on September 30, 2004. Corporation X is required to join the new consolidated group of Corporation Y. Both corporations are fiscal year end October 30th taxpayers. Corporation Y does not have nexus with South Carolina. For federal purposes, Corporation X is required to file two short period returns for the following periods: (1) November 1, 2003 through September 30, 2004 and (2) October 1, 2004 through October 31, 2004. On October 1, 2004, Corporation X issues 100,000 shares of preferred stock to Corporation Y thereby increasing the total capital stock and paid in capital of Corporation X from $700,000 to $800,000. Note: The capital structure on which the license fee is based (*i.e.*, the capital stock and paid in or capital surplus amount as of the first day of the taxable year (October 1, 2004) is greater than the capital reported in the applicable financial statement as of the end of the taxable year (September 30, 2004) that is on Form 1120, "U. S. Corporation Income Tax Return," Schedule L, "Balance Sheet Per Books."

Accordingly, a schedule reflecting the October 1, 2004 balance and the reasons for the difference should be attached to South Carolina Form 1120.

1. Short Year 1 Computation – Time of Acquisition. On September 30, 2004, Corporation X is acquired and required to join the new consolidated group of Corporation Y. As a result, Corporation X files a short period income tax return for November 1, 2003 through September 30, 2004, on December 15, 2004, along with a prorated license fee of $747 based on the capital stock and paid in capital of the corporation on October 1, 2004, of $800,000 (not $700,000), and the number of full months in the short period. The $747 license fee due with the short period return is calculated as follows: ($800,000 x .001 + $15) x 11/12.

2. Short Year 2 Computation – New Consolidated Group Y. Corporation X's tax year did not change as a result of change in ownership. Corporation X's short period income tax return for October 1, 2004 through October 31, 2004, is filed January 15, 2005, along with a prorated license fee of $68 based on the capital stock and paid in capital of the corporation on November 1, 2004 of $800,000, and the number of full months in the short period. The $68 license fee due with the short period return is calculated as follows: ($800,000 x .001 + $15) x 1/12.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Burnet R. Maybank III
Burnet R. Maybank III, Director

July 12, 2005
Columbia, South Carolina