South Carolina Tax Commission
301 Gervais Street, P.O. Box 125, Columbia, South Carolina 29214

SC TECHNICAL ADVICE MEMORANDUM #88-3

TO:	Mr. William R. Geddings, Jr., Director Office Services Division
FROM:	John Swearingen, Manager Tax Policy and Procedures Department
DATE:	February 3, 1988
SUBJECT:	Income Tax: Penalty for Underpayment of Estimated Tax
REFERENCE:	S.C. Code Ann. Section 12-54-55 (Supp. 1987) S.C. Code Ann. Section 12-54-160 (Supp. 1987)
AUTHORITY:	S.C. Code Ann. Section 12-3-170 (1976) S.C. 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:

Will the Commission waive the penalty for underpayment of estimated tax due to the increase in the required payment from 70% to 90%?

Facts:

S.C. Code Section 12-54-55 was adopted to conform the penalties for underpayment of estimated income tax to Internal Revenue Code Sections 6654 and 6655. The legislation was approved June 22, 1987 and was effective for years beginning after December 31, 1986. The provisions of this section increased the amount required to be paid in as estimated tax to 90% and lowered the penalty to simple interest. The old penalty section (12-7-2000) required 70% to be paid in as estimated tax with a penalty of 5% and simple interest. Thus, while reducing the amount of the penalty, the new provision increased the amount required to be paid in.

Discussion:

The purpose of Section 12-54-55 was to conform the underpayment of estimated tax penalties to the federal penalties (with the exception of the small amount provision which is $100 for S.C. but $500 for federal).

The Tax Reform Act of 1986 increased the individuals required payments for federal purposes from 80% to 90%. Subsequently, the Technical Corrections Act of 1987 delayed the increase in the individuals required payments to years beginning after December 31, 1987. The primary reasons for delaying the increase from 80% to 90% was due to the problems with Form W-4 and other provisions of the 1986 Act.

Waiver provisions in the Tax Reform Act provide that no penalties for underpayment of estimated taxes shall be made for any period before April 16, 1987 (March 16, 1987 in the case of corporations).

S.C. Code Section 12-54-160 provides that the Commission, unless prohibited within a specific section may waive, dismiss, or reduce penalties.

In view of the problems arising from the Tax Reform Act of 1986, the delay in the increase from 80% to 90% at the Federal level and the fact that the first two payments of calendar 1987 (April 15 and June 15) were past when Section 12-54-55 was approved on June 22, 1987, the penalties resulting from the increase from 70% to 90% for state purposes will be waived.

Conclusion:

The penalty for underpayment of estimated tax due to the increase in the required payment from 70% to 90% will be waived for income tax years beginning prior to January 1, 1988.