

INSTRUCTIONS FOR SC1065 - SOUTH CAROLINA PARTNERSHIP RETURN

NEW INFORMATION 1999

- South Carolina has updated income tax laws to conform with the Internal Revenue Code of 1986, as amended through December 31, 1998, including the effective dates, with the modifications as explained in the instructions.
- Taxpayers may not be penalized or assessed any penalties or interest for making a late payment if a computer failure resulting from a year 2000 date change causes any kind of notice or bill issued from the State to be mailed late.
- The signature area on the return contains a new area for the preparer's telephone number.

LIABILITY FOR RETURNS

Every partnership, whether domestic or foreign, doing business or owning property in South Carolina must make a return of income on this form. The income or loss of a partnership shall be computed in the same manner and on the same basis as in the case of an individual. Taxpayers carrying on business in a partnership shall be liable for income tax only in their individual capacity, and each partner shall include in his return his distributive share, whether distributed or not, of the net income or loss of the partnership for the taxable year. If the taxable year of a partner is different from that of the partnership, the amount so included shall be based upon the partnership income of the year ending within the taxpayer's taxable year.

COMPUTATION OF INCOME

Line 1 - Line 1 is the total of federal Schedule K lines 1 through 7 income (loss) amounts. This is necessary to make the partnership income tax return consistent with the requirement to pay withholding tax on income of nonresident partners. See line 11 and Schedule WH.

Note: Generally all income (loss) amounts are considered business related and subject to apportionment by multi-state partnerships. See instructions after line 3 for exceptions related to dividend income, real estate gains, and guaranteed payments.

Line 2 - SOUTH CAROLINA ADDITIONS TO INCOME (See note.) Add any income taxed by South Carolina but not taxed by the U.S. government such as interest income received from states other than South Carolina, or their political subdivisions.

Add any expense deducted on the federal return related to any income exempt or not taxable by South Carolina.

Effective June 21, 1993, nonresident sellers of South Carolina real property and associated tangible personal property that elect out of installment sales treatment for state income tax purposes pursuant to Section 12-9-510 will have an addition to federal income in the year of sale so as to include the entire gain in South Carolina taxable income.

Line 3 - SOUTH CAROLINA SUBTRACTIONS FROM INCOME (See note.) Deduct any income **not** taxed by South Carolina that is taxed by the U.S. such as interest paid by the U.S. government on U.S. savings bonds, Treasury bills, etc.

As of 1985, depreciation expense is equal to federal depreciation expense. Any adjustment to depreciation due to prior differences in law will occur at the end of the federal depreciation period. The balance of personal property basis will be depreciated at the rate of 50% per year; real property basis at the rate of 20% per year. Depreciation cannot exceed the basis of an asset!

Federal election to reduce basis due to federal investment credit will result in ordinary expense of the amount of the reduction in basis. This reduction in basis is a deduction from income.

Note: The following items may be an addition to income or a deduction depending upon how a particular item was reported or deducted:

- change in accounting method
- installment method of reporting income
- federal gain or loss due to difference in basis because of state tax law prior to 1985

TREATMENT OF DIVIDENDS, REAL ESTATE GAINS AND GUARANTEED PAYMENTS

- Dividend income is taxed only to partners who are **residents** of South Carolina. If dividend income is included in the line 1 amount of a multi-state partnership, such income would not be subject to apportionment. For purposes of apportionment, dividend income is subtracted on line 3 prior to apportionment.
- Income (loss) from sale of real property is generally allocated to the state where it is located. If any of such income (loss) is included in the line 1 amount, it would be eliminated on line 3 for purposes of allocation only, and if the real property is located in South Carolina, the income (loss) is included in the line 10 amount after apportionment. Other directly allocated income (loss) would be treated in the same manner.
- Guaranteed payments for services performed for a multi-state partnership are not subject to apportionment. Guaranteed payments for services rendered are fully taxable to residents of South Carolina no matter where performed, and fully taxable to nonresidents if paid for services performed in South Carolina. **Such guaranteed payments to nonresidents are added to the amount in line 2 of Schedule W-H.** (Guaranteed payments for capital **are** subject to apportionment.)

APPORTIONMENT OF INCOME

If the entire trade or business of a partnership is carried on in this state, the entire net income should be apportioned to the state of South Carolina. (Skip lines 5 through 10.)

Multi-state partnerships whose principal profits are derived from manufacturing, producing, collecting, buying, assembling, processing, selling, distributing or dealing in tangible personal property compute the portion of business income that is attributable to South Carolina by applying the "four factor apportionment formula." Lines 5, 6, 7 and 8 summarize the computation of the South Carolina percent of property, sales and payroll. The average percent on line 9 is determined by adding the South Carolina percentages for property, sales and payroll (with sales counted twice) and dividing by four. Compute all percentages to four decimal places.

If the principal profits or income of a multi-state partnership are derived from sources other than manufacturing, producing, collecting, buying, assembling, processing, selling, distributing or dealing in tangible personal property, the partnership must compute the income attributable to this state upon a ratio of gross receipts from within this state to total gross receipts. Complete line 5 and do not divide by four.

EXTENSIONS

Form SC4868 must be filed to request an extension of time to file a partnership return. Partners' returns are extended separately.

A copy of each federal K-1 is required to be attached to Form SC1065. Partners with income or loss must file a tax return regardless of tax liability. See Schedule SC-K for instructions on information to be furnished to partners.

INSTRUCTIONS - Schedule SC-K

This schedule is continued primarily as a worksheet to make South Carolina adjustments to federal Schedule K items and to show the amount of these items that are apportioned or allocated to South Carolina. Column B additions to and subtractions from federal taxable income include the same adjustments possible for an individual.

The items appearing at numbers 2 through 7 on the federal Schedule K are generally classified as business related using South Carolina apportionment and allocation rules. If the Partnership has multi-state operations, these items are subject to apportionment using the same (apportionment) ratio as determined on lines 5 through 8 of page 1, form SC1065. See exceptions in instructions to line 3, page 1, form SC1065.

Column (E) shows the Column (C) items after application of the apportionment and allocation rules. The amounts in Column (E) are taxable by the state of South Carolina.

Lines 4, 5, and 6. See exceptions for Dividends, Real Estate Gains, and Guaranteed Payments in instructions to line 3, page 1 form SC1065. If the Partnership has multi-state operations, multiply the amount(s) in Column (C) by the apportionment ratio as determined in lines 5 through 9 of page 1 form SC1065.

NON-REFUNDABLE TAX CREDITS

Non-refundable credits are distributed to partners in proportion to ownership interest. See tax credit forms for instructions and limitations.

INFORMATION TO BE FURNISHED TO PARTNERS

Partners who are **residents of South Carolina** must be provided with the total amount of their proportionate share of the following items:

- (1) South Carolina adjustments from Schedule SC-K Column (B) plus
- (2) Schedule SC-K Column (D) amounts that are allocated or apportioned to states other than South Carolina.

This total amount would be the respective partners "partnership modification" to federal taxable income.

Partners who are **nonresidents of South Carolina** must be provided with their share of the Schedule SC-K Column (E) items. These amounts are reportable to the state of South Carolina.

Note: The total of lines 1 through 7 of Schedule SC-K, Column (E) should equal the amount shown on line 10 of page 1, form SC1065.

Partnerships receiving passive activity income and losses pursuant to Internal Revenue Code Section 469, from investments located within and without South Carolina, must furnish partners with detail for proper reporting of these amounts. Similar information must be furnished to partners who did not materially participate in the trade or business of a partnership with multi-state operations. Such partners may have nondeductible passive losses which cannot offset interest and other business related portfolio income apportioned to South Carolina.

SCHEDULE W-H: WITHHOLDING ON INCOME OF PARTNERS WHO ARE NONRESIDENTS OF SOUTH CAROLINA

Partnerships are required annually to withhold 5% (percent) of the South Carolina taxable income of partners who are nonresidents of South Carolina. Complete **Schedule W-H** to compute the withholding. (Note: Any South Carolina real estate gain subject to buyer withholding is not subject to this withholding.) The income tax withheld must be paid to the South Carolina Department of Revenue along with filing form SC1065 by the fifteenth day of the fourth month following taxable year end of the partnership. By this same date, the partnership must provide nonresident partners a form 1099-MISC with "SC only" written at the top, showing respective amounts of income and tax withheld. Along with filing form SC1065 and payment of tax, the partnership must attach a schedule disclosing the name, address, tax identification number, SC taxable income and tax withheld for each nonresident partner. For tiered or layered partnerships income tax should be withheld only by the partnership with activities in South Carolina. Related partnerships should attach a statement explaining the pass-through withholding and provide 1099s to their partners. Partnerships requesting an extension of time to file form SC1065 must estimate SC taxable income of nonresidents and pay 5% withholding tax on this amount along with filing form SC4868 (Request for Extension) by the 15th day of the fourth month following its taxable year end. Each nonresident must attach a copy of this form 1099-MISC to his respective income tax return as verification for claiming credit for this withholding.

A nonresident partner may provide the partnership with an affidavit (form I-309) agreeing that he is subject to the jurisdiction of the SC Department of Revenue and the Courts of this State for purposes of determining and collecting SC tax, interest and penalties which may be due. An affidavit form may be obtained from the SC Department of Revenue. The partnership should mail the affidavit(s) separately to the SC Department of Revenue, Partnership Section, Columbia, SC 29214-0008. The partnership is not required to withhold income tax on behalf of such partner. If an affidavit has previously been filed it should not be resubmitted. This withholding is not required if the partnership has no SC taxable income for the year. **Partnerships that report the income of their nonresident partners on a composite return are not required to withhold tax or file affidavits.** See Composite Filing.

COMPOSITE FILING

A composite return is one nonresident individual income tax return (form SC1040NR) filed by a partnership which computes and reports the income and tax of its nonresident partners. The return is due on or before April 15th following the partners' taxable year end and any tax due is paid along with filing the return. Each participating nonresident partner's separate income tax is computed in the same manner as if the partner were separately reporting income on a form SC1040NR. A schedule should be attached showing the separate computations. The separate tax amounts are totaled and entered on the "tax" line of page 1, form SC1040NR. The tax due in connection with this return is subject to declaration of estimated tax rules. See form SC1040ES and instructions. The heading of the composite return states the name, address and federal EIN of the partnership, and must be signed by a general partner of the partnership. Corporate partners and nonresident partners having SC taxable income from sources other than the partnership may not participate in this filing.

Partnerships requesting an extension for filing a composite return must estimate tax due and pay the tax along with filing the extension on or before April 15th following the partners' taxable year end.

INTEREST AND PENALTIES

A taxpayer that fails to remit tax when due will be charged interest from the time the tax was due until paid in its entirety. Penalties may be applied for late payment of tax and for late filing of returns. Penalties may also be applied for negligence and for disregard of regulations.