



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 125, Columbia, South Carolina 29214-0575

SC REVENUE RULING #21-7

- SUBJECT:** Discount for Timely Filed Returns
(Sales and Use Tax)
- EFFECTIVE DATE:** Applies to all periods open under the statute.
- SUPERSEDES:** All previous advisory opinions and any oral directives in conflict herewith.
- REFERENCES:** S.C. Code Ann. Section 12-36-2610
- AUTHORITY:** S.C. Code Ann. Section 12-4-320 (2014)
S.C. Code Ann. Section 1-23-10(4) (2005)
SC Revenue Procedure #09-3
- SCOPE:** The purpose of a Revenue Ruling is to provide guidance to the public. It is an advisory opinion issued to apply principles of tax law to a set of facts or general category of taxpayers. It is the Department's position until superseded or modified by a change in statute, regulation, court decision, or another Department advisory opinion.

PURPOSE

The purpose of this advisory opinion is to provide guidance to persons filing a sales and use tax return regarding the discount provided in Code Section 12-36-2610 for timely filing and paying the sales and use taxes due.

LAW

Code Section 12-36-2610 provides for a discount for the timely payment of State and local sales or use tax, and reads:

When a sales or use tax return required by Section 12-36-2570 and a local sales and use tax law administered and collected by the department on behalf of a local jurisdiction is filed and the taxes due on it are paid in full on or before the final due date, including any date to which the time for making the return and paying the tax has been extended pursuant to the provisions of Section 12-54-70, the taxpayer is allowed a discount as follows:

(1) on taxes shown to be due by the return of less than one hundred dollars, three percent;

(2) on taxes shown to be due by the return of one hundred dollars or more, two percent.

In no case is a discount allowed if the return, or the tax on it is received after the due date, pursuant to Section 12-36-2570, or after the expiration of any extension granted by the department. The discount permitted a taxpayer under this section may not exceed three thousand dollars during any one state fiscal year. However, for taxpayers filing electronically, the discount may not exceed three thousand one hundred dollars. A person making sales into this State who cannot be required to register for sales and use tax under applicable law but who nevertheless voluntarily registers to collect and remit use tax on items of tangible personal property sold to customers in this State is entitled to a discount on returns filed as otherwise provided in this section not to exceed ten thousand dollars during any one state fiscal year.

QUESTIONS AND ANSWERS

1. Q. When is a discount allowed for filing a sales or use tax return?

A. A taxpayer is allowed a discount when a required sales or use tax return is timely filed and the taxes due on the timely filed return are paid in full on or before the final due date (including any date to which the time for making the return and paying the tax has been extended¹).

Note: See Code Section 12-60-50 when the last day of a specified time period is a Saturday, Sunday, or a legal holiday. For sales and use tax purposes, a legal holiday is any day the Department or United States Postal Service offices are closed.

2. Q. Who is allowed to claim the discount?

A. The discount is claimed on the sales and use tax return by the “taxpayer.” A taxpayer is defined in Code Section 12-36-40 to mean any person liable for taxes under this chapter (i.e., the Sales and Use Tax Act). While a taxpayer may have multiple retail locations and a retail license for each location, the discount applies to the taxpayer and not to each retail location.

¹ Code Section 12-54-70(c) provides an extension of time to file sales and use tax returns for no more than one additional month beyond the due date upon approval of the Department. Code Section 12-4-320(6) provides for certain situations when the last day prescribed for filing a return or making a payment is postponed or disregarded. These situations include a presidentially declared disaster or terrorist act or military action. Code Section 12-54-87 provides that for purposes of discounts allowed for timely filing returns, if the Department waives all penalties for late filing due to reasonable cause, the discount must be allowed despite the late filing.

3. Q. Does the discount apply to State and local sales and use taxes?

A. The discount applies to: (1) State sales and use taxes and (2) local sales and use taxes administered and collected by the Department on behalf of a local jurisdiction. Local sales and use tax administered and collected by the Department include: local option; capital projects; transportation projects; education capital improvements; school district taxes; tourism development tax; and Catawba Tribal sales tax.

The specific sales and use tax return filed with the Department is based on the taxpayer's business. Form ST-3, "State Sales and Use Tax Return," is the general sales and use tax return that is filed by most businesses.

Certain specific businesses, such as those liable for the sales tax on accommodations, the sales tax on aviation fuel, or the maximum sales tax of \$300 or \$500 imposed on specific items file one of the following sales and use tax forms:

ST-388 "State Sales, Use, and Accommodations Tax Return"

ST-403 "State Sales, Use, and Aviation Fuel Tax"

ST-455 "State Sales, Use, and Maximum Tax Return"

The discount provided in Code Section 12-36-2610 is allowed for sales and use tax paid on the above referenced forms.

The discount, however, does not apply to taxes paid on the following returns since these returns do not have a specified statutory due date:

ST-236 "Casual Excise or Use Tax Return"

UT-3 "Use Tax Payment Return"

4. Q. What is the maximum discount amount available each State fiscal year?

A. The discount for a taxpayer cannot exceed the following amounts in a State fiscal year:

Taxpayer Filing Paper Returns. The discount allowed cannot exceed \$3,000 for a taxpayer who files by paper (regardless of the number of retail locations).

Taxpayer Filing Electronic Returns. The discount allowed cannot exceed \$3,100 for a taxpayer who files electronically (regardless of the number of retail locations).

Out of State Retailer Voluntarily Collecting Use Tax. The discount allowed cannot exceed \$10,000 for an out of state retailer who voluntarily registers to collect and remit use tax (i.e., a retailer who does not have either physical presence or economic nexus with South Carolina), regardless of the number of out of state locations.

5. Q. When are sales and use tax returns and payments due?
- A. Code Section 12-36-2570(A) provides that sales and use taxes are due and payable monthly on or before the 20th day of the month following the month in which the tax accrues, except as otherwise provided. For example, for sales that occur in June, the monthly sales and use tax return and tax payment for June are due on July 20th.

While monthly filers are the majority of sales and use tax filers, Code Sections 12-36-2580 and 12-36-2590 provide that, upon Department approval, sales and use tax returns and payments may be made at times other than monthly periods, such as quarterly or annually.

6. Q. When is a sales and use tax return considered timely?
- A. Paper Return. A paper return is considered to be timely filed if the return is mailed and has a postmark dated on or before the date the return is required by law to be filed. Code Section 12-36-2570(C).

Electronic Return. An electronic return is considered to be timely filed if the return is transmitted by midnight the day the return is required by law to be filed.

Code Section 12-60-50 provides that the due date of returns and payments is extended to the next business day when the due date falls on a Saturday, Sunday, or legal holiday. See SC Revenue Procedure Bulletin #02-2, "Return Due Date Falling on Saturday, Sunday, or Legal Holiday," for a list of legal South Carolina holidays.

7. Q. When is a tax payment considered timely made?
- A. Check Payment. The provisions of Internal Revenue Code Section 7502 relating to timely mailing as timely filing and paying (i.e., the "mailbox rule" or "postmark date rule") are applicable to payments of sales and use taxes. As such, when a payment is mailed on or before the due date and is actually delivered after that date, the date of the U.S. Postal Service postmark is deemed the delivery date and date of payment. Code Section 12-60-50(B) and SC Revenue Ruling #13-1.

Electronic Payment. Payment in immediately available funds by electronic means is timely if the initiation of the transfer of funds occurs on or before the due date of the tax. If settlement to the State's account does not occur on or before the banking day following the due date of the tax, payment is deemed to occur on the date settlement occurs. See Code Section 12-54-250(A)(1) and (2).

Note: Payments by check or electronic means that are declined due to insufficient funds are not timely.

8. Q. What filing period(s) does the discount apply?

A. The discount is based on the State's fiscal year July 1 through June 30; it is not based on a calendar year. The filing periods in which the discount may be claimed is provided below for taxpayers filing a sales and use tax return monthly, quarterly, or annually.

Monthly Return. The discount begins with the June monthly sales and use tax return that is due July 20th, continues with the July monthly sales and use tax return that is due August 20th and so on each subsequent month. The discount ends with the May return that is due June 20th, or an earlier month if the maximum discount has been claimed.

Quarterly Return. The discount begins with the April, May, and June quarterly sales and use tax return that is due July 20th, continues with the July, August, and September quarterly sales and use tax return due October 20th and so on each subsequent quarter. The discount period ends with the January, February, and March quarterly sales and use tax return that is due April 20th, or an earlier quarter if the maximum discount has been claimed.

Annual Return. The discount is based on the calendar year sales and use tax return that is due January 20th.

9. Q. How is the timely filing discount calculated?

A. The discount is calculated based on the total taxes (state and local) due with the return as follows:

For returns showing a total tax due (state and local) of less than \$100. The discount is 3% of the total tax due.

For returns showing a total tax due (state and local) of \$100 or more. The discount is 2% of the total tax due.

10. Q. Is the discount amount claimed on a timely filed return recomputed on an amended return?

A. The discount amount is not recomputed on an amended return that is filed after the due date of the original return. In such instance, the taxpayer filing the amended return is allowed the discount amount reported on the original return. If, however, an amended return is filed on or before the due date of the original return, then the discount amount is recomputed on the amended return.

For example, Taxpayer X timely files his May sales and use tax return on June 15th (the due date of the return is June 20th.) The return reflects \$1,000 sales and use tax due and a \$20 discount (2% x \$1,000). On July 1, X files an amended return to correctly reflect \$10,000 sales and use tax due. The discount reported on the amended return remains

\$20 - the discount amount that was claimed on the timely filed original return. No discount is allowed for the additional \$9,000 in sales and use tax paid with the amended return on July 1.

The answer would be different if X realized the error and filed the amended return on June 20th (the due date of the return.) Assume X files an amended return on June 20th to correctly reflect \$10,000 sales and use tax due. The discount reported on the amended return is \$200 since the discount allowed under Code Section 12-36-2610 is based on the taxes due and paid on a timely filed return.

Note: In no instance is the discount reduced or required to be repaid when filing an amended return. For example, if X had filed an amended return on July 1 to reflect \$100 sales tax due and a \$2 discount ($\$100 \times 2\%$), then the discount would remain \$20. The discount is not required to be reduced or repaid as a result of an amended return.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/W. Hartley Powell

W. Hartley Powell, Director

June 10 _____, 2021
Columbia, South Carolina