

SC INFORMATION LETTER #03-6

SUBJECT: Sale of a Motor Vehicle, Trailer, Semitrailer and Pole Trailer to a Nonresident (Sales Tax)

DATE: March 21, 2003

SUPERSEDES: SC Information Letter #98-17

REFERENCE: S.C. Code Ann. Section 12-36-930 (Supp. 2000)

AUTHORITY: S.C. Code Ann. Section 12-4-320 (Supp. 2000)
SC Revenue Procedure #03-1

SCOPE: An Information Letter is a written statement issued to the public by the Department to announce general information useful in complying with the laws administered by the Department. An Information Letter has no precedential value, and is not binding on the public or the Department.

GENERAL INFORMATION CONCERNING SALES TO NONRESIDENTS

General Rule. For South Carolina sales tax purposes, Code Section 12-36-930 provides that the sales tax due on a sale to a nonresident of a motor vehicle, trailer, semitrailer, or pole trailer that is to be registered and licensed in the nonresident purchaser's state of residence, is as follows:

1. The lesser of:
 - (a) the sales tax which would be imposed on the sale in the purchaser's state of residence or
 - (b) the tax that would be imposed under Chapter 36 of the South Carolina Code of Laws.
2. No sales tax is due in South Carolina if a nonresident purchaser cannot receive a credit in his resident state for sales tax paid to South Carolina.

Required Paperwork. Code Section 12-36-930 further provides that at the time of the sale, the seller shall obtain from the purchaser a notarized statement of the purchaser's intent to license the vehicle in the purchaser's state of residence within 10 days. South Carolina Form ST-385, "Affidavit for Intent to License Motor Vehicle, Trailer, Semitrailer, or Pole Trailer Purchased in South Carolina in Purchaser's State of Residence" may be used to meet the paperwork requirements of Code Section 12-36-930. The seller should retain a completed and notarized copy of Form ST-385. The purchaser should give a copy to the sales tax agency of the purchaser's state of residence.

Note: Worksheets are attached to assist in calculating the tax due on sales to nonresidents. For illustrative purposes, attached is a sample worksheet completed for a motor vehicle purchased by a Georgia resident.

Sales Tax Rates Imposed by Neighboring States. Since the amount of tax imposed on a nonresident purchaser of a motor vehicle depends, in part, on the tax rate and type of tax imposed in the nonresident's home state, the sales tax imposed on sales of motor vehicles by neighboring states is provided to assist dealers in calculating the tax due, if any. The neighboring states tax information, as of the date of this Information Letter, is: Georgia – a 4% State rate imposed on sales price less trade in allowance, and North Carolina – no sales tax is due since North Carolina does not impose a sales tax on the sale of a motor vehicle, but imposes a highway use tax upon registration.

Sales to Residents of Other States and Countries. In order to assist dealers verify the most current sales tax information in other states or to obtain information in calculating the tax due on sales to nonresidents of states not listed above, the following are websites that provide a link to applicable state agencies as of the date of this Information Letter:

1. <http://www.taxadmin.org/fta/link/>. This is the Federation of Tax Administrators website. It contains a link to the website to each of the 50 states taxing authorities.
2. <http://www.seatastates.org/links.htm>. This is the Southeastern Association of Tax Administrators website. It contains a link to the website to each of the southeastern states taxing authorities.

A sale of a motor vehicle, trailer, semitrailer, or pole trailer to a resident of a possession of the United States or another country is subject to South Carolina sales tax at the rate that a South Carolina resident would pay on the purchase.

SALES NOT SUBJECT TO SALES AND USE TAX

The following sales are not subject to sales and use tax:

1. A sale of a motor vehicle, trailer, semitrailer, or pole trailer that is delivered out-of-state by the dealer at the purchaser's direction. See Code Section 12-36-2120(36).
2. A sale of a motor vehicle, trailer, semitrailer, or pole trailer to a dealer for resale. The liability for the sales tax will shift from the seller to the purchaser if the seller receives a properly completed Form ST-8A, "Resale Certificate," from the purchaser. See Code Section 12-36-120(1).
3. A sale of a motor vehicle to a military personnel stationed in this State by reason of orders of the U.S. Armed Forces who is not a resident of South Carolina is exempt from South Carolina sales and use tax, provided the dealer is furnished within 10 days of the sale: (1) a copy of Form ST-178, "Nonresident Military Tax Exemption Certificate," completed by a commissioned officer of the Armed Forces of a higher rank than the purchaser, or (2) a leave

and earnings statement from the appropriate department of the armed services designating the state of residence of the buyer. This exemption applies only to the sale of a motor vehicle that is primarily designed to carry passengers, such as a car, passenger van, and sports utility vehicle. It does not apply to the sale of a motor vehicle designed primarily to carry cargo, such as a cargo van or truck. See Code Section 12-36-2120(25).

SOUTH CAROLINA \$300 MAXIMUM SALES TAX

South Carolina Code Section 12-36-2110 imposes up to a \$300 maximum South Carolina sales tax on sales of the following vehicles and trailers:

1. Motor vehicles.
2. Recreational vehicles, including tent campers, travel trailers, park trailers, motor homes, and fifth wheels.
3. Trailers and semitrailers capable of being pulled only by a truck tractor.
4. Self-propelled light construction equipment, with compatible attachments, if the equipment's net engine horsepower is no more than 160. Equipment that is used for maintenance, and not construction, does not qualify for the \$300 maximum tax.
5. Horse trailers.

Motor vehicles and trailers, that are entitled to the \$300 maximum tax if sold, are entitled to the maximum tax when leased, provided the lease is in writing and specifically states a term of, and remains in force for, a period in excess of 90 continuous days.

For purposes of computing the maximum tax, Code Section 56-3-20 provides definitions of motor vehicle, vehicle, trailer, semitrailer, pole trailer, and truck tractor.

Note: Sales of motor vehicles and trailers that are subject to the \$300 maximum tax are not subject to the local sales and use taxes.

SOUTH CAROLINA EXCEPTIONS TO THE MAXIMUM TAX

The South Carolina sales and use tax imposed may exceed \$300 on sales of:

1. Trailers and semitrailers capable of being pulled by vehicles other than a truck tractor.
2. Pole trailers.
3. Boat trailers.

WORKSHEET EXAMPLE - Sale of a Motor Vehicle to a Georgia Resident

Purchaser's Name John Doe
Purchaser's State of Residence Georgia
Purchaser's State Sales Tax Rate 4 %
Trade-in Allowed x Yes No

Computation of Tax Based on Georgia's State Sales Tax Rate

1. Sales Price (Enter amount on ST-3, Line 1 of Worksheet) \$28,000
2. Less: Trade-in (if allowed in purchaser's state) \$ 8,000
3. Measure of Tax (Line 1 less line 2) \$20,000
4. Multiply by Purchaser's State Sales Tax Rate (Not to exceed 5%) 4%
5. Tax Due Based on Purchaser's State Sales Tax Rate \$ 800

Computation of Maximum Tax

6. Sales Price (Line 1) \$28,000
7. Less: Trade-in \$ 8,000
8. Measure of Tax (Line 6 less line 7) \$20,000
9. Multiply by SC Sales Tax Rate .05
10. Maximum Tax (This amount may not exceed \$300.00) \$ 300

Computation of Allowable Deductions

11. SC Sales Tax Due (Lesser of Line 5 or Line 10) \$ 300
12. SC Sales Tax Rate .05
13. Basis for Tax at SC Rate (Line 11 divided by Line 12) \$ 6,000
14. Measure of Tax (Line 3) \$20,000
15. Less: Basis for Tax at SC Rate (Line 13) \$ 6,000
16. Deduction for Excess Sales Price (Line 14 less Line 15) \$14,000
17. Trade-in Allowed (Line 2) \$ 8,000
18. Total Deductions (Line 16 plus Line 17) \$22,000
(Enter amount on the reverse side of Form ST-3)

WORKSHEET: SALES OF MOTOR VEHICLES TO NONRESIDENTS

Purchaser's Name _____
Purchaser's State of Residence _____
Purchaser's State Sales Tax Rate _____ %
Trade-in Allowed _____ Yes _____ No

Computation of Tax Based on Purchaser's State Sales Tax Rate

1. Sales Price (Enter amount on ST-3, Line 1 of Worksheet) _____
2. Less: Trade-in (if allowed in purchaser's state) _____
3. Measure of Tax (Line 1 less line 2) _____
4. Multiply by Purchaser's State Sales Tax Rate (Not to exceed 5%) _____
5. Tax Due Based on Purchaser's State Sales Tax Rate _____

Computation of Maximum Tax

6. Sales Price (Line 1) _____
7. Less: Trade-in _____
8. Measure of Tax (Line 6 less line 7) _____
9. Multiply by SC Sales Tax Rate _____ .05
10. Maximum Tax (This amount may not exceed \$300.00) _____

Computation of Allowable Deductions

11. SC Sales Tax Due (Lesser of Line 5 or Line 10) _____
12. SC Sales Tax Rate _____ .05
13. Basis for Tax at SC Rate (Line 11 divided by Line 12) _____
14. Measure of Tax (Line 3) _____
15. Less: Basis for Tax at SC Rate (Line 13) _____
16. Deduction for Excess Sales Price (Line 14 less Line 15) _____
17. Trade-in Allowed (Line 2) _____
18. Total Deductions (Line 16 plus Line 17) _____
(Enter amount on the reverse side of Form ST-3)

WORKSHEET: SALES TO NONRESIDENTS OF TRAILERS AND SEMITRAILERS PULLED BY A TRUCK TRACTOR

Purchaser's Name _____

Purchaser's State of Residence _____

Purchaser's State Sales Tax Rate _____%

Trade-in Allowed _____ Yes _____ No

Computation of Tax Based on Purchaser's State Sales Tax Rate

1. Sales Price (Enter amount on Form ST-3, Line 1 of Worksheet) _____

2. Less: Trade-in (if allowed in purchaser's state) _____

3. Measure of Tax (Line 1 less Line 2) _____

4. Multiply by Purchaser's State Sales Tax Rate (Not to exceed 5%) _____

5. Tax Due Based on Purchaser's State Sales Tax Rate _____

Computation of Maximum Tax

6. Sales Price (Line 1) _____

7. Less: Trade-in _____

8. Measure of Tax (Line 6 less line 7) _____

9. Multiply by SC Sales Tax Rate _____ .05

10. Maximum Tax (This amount may not exceed \$300.00) _____

Computation of Allowable Deductions

11. SC Sales Tax Due (Lesser of Line 5 or Line 10) _____

12. SC Sales Tax Rate _____ .05

13. Basis for Tax at SC Rate (Line 11 divided by Line 12) _____

14. Measure of Tax (Line 3) _____

15. Less: Basis for Tax at SC Rate (Line 13) _____

16. Deduction for Excess Sales Price (Line 14 less Line 15) _____

17. Trade-in Allowed (Line 2) _____

18. Total Deductions (Line 16 plus Line 17) _____
(Enter amount on the reverse side of Form ST-3)

WORKSHEET: SALES TO NONRESIDENTS OF POLE TRAILERS AND TRAILERS OR SEMITRAILERS PULLED BY A VEHICLE OTHER THAN A TRUCK TRACTOR

Purchaser's Name _____
Purchaser's State of Residence _____
Purchaser's State Sales Tax Rate _____ %
Trade-in Allowed _____ Yes _____ No

Computation of Tax Based on Purchaser's State Sales Tax Rate

1. Sales Price (Enter amount on Form ST-3, Line 1 of Worksheet) _____
2. Less: Trade-in (if allowed in purchaser's state) _____
3. Measure of Tax (Line 1 less Line 2) _____
4. Multiply by Purchaser's State Sales Tax Rate (Not to exceed 5%) _____
5. Tax Due Based on Purchaser's State Sales Tax Rate _____

Computation of Maximum Tax

6. Sales Price (Line 1) _____
7. Less: Trade-in _____
8. Measure of Tax (Line 6 less line 7) _____
9. Multiply by SC Sales Tax Rate, add local sales tax, if applicable _____
10. Maximum Tax (This amount may exceed \$300.00) _____

Computation of Allowable Deductions

11. SC Sales Tax Due (Lesser of Line 5 or Line 10) _____
12. Enter sales tax rate from Line 9 _____
13. Basis for Tax at SC Rate (Line 11 divided by Line 12) _____
14. Measure of Tax (Line 3) _____
15. Less: Basis for Tax at SC Rate (Line 13) _____
16. Deduction for Excess Sales Price (Line 14 less Line 15) _____
17. Trade-in Allowed (Line 2) _____
18. Total Deductions (Line 16 plus Line 17)
(Enter amount on the reverse side of Form ST-3) _____