



SC PRIVATE LETTER RULING #90-2

TO: XYZ Co.

SUBJECT: Military Exemption - Autos
(Sales and Use)

REFERENCE: S.C. Code Section 12-35-550(25) (Supp. 1988)
S.C. Code Section 12-35-510 (1976)

AUTHORITY: S.C. Code Section 12-3-170 (1976)
SC Revenue Procedure #87-3

SCOPE: A Private Letter Ruling is a temporary document issued to a taxpayer, upon request, and it applies only to the specific facts or circumstances related in the request. Private Letter Rulings have no precedential value and are not intended for general distribution.

Question:

Is a Chief Warrant Officer a commissioned officer, within the meaning of Code Section 12-35-550(25)?

Facts:

XYZ Co. sells motor vehicles to, among others, members of the military. Such sales are exempt from the sales tax, if the requirements of Code Section 12-35-550(25) are met. That section reads, in part:

The gross proceeds of the sale of automobiles or motor bikes to a person domiciled in or resident of another state, who is located within South Carolina by reason of orders of the Armed Forces of the United States [are exempt]....if within ten days of the sale or purchase a statement is furnished the vendor from a commissioned officer of the Armed Forces of a higher rank than the purchaser certifying that the person claiming the exemption is a member of the Armed Forces on active duty and is domiciled in or a resident of another state. (emphasis added).

Discussion:

The question at hand is: Does a statement furnished by a chief warrant officer satisfy the requirements of Code Section 12-35-550(25)? More specifically, is a chief warrant officer a commissioned officer?

A commissioned officer is one who has been bestowed his or her rank by the President. Also, the terms "commissioned officer" and "warrant officer" are defined at 10 U.S.C.A., Section 101(15) and (16), in part, as follows:

- (15) "Commissioned officer" includes a commissioned warrant officer.
- (16) "Warrant officer" means a person who holds a commission or warrant in a warrant officer grade.

The Warrant Officer Act of 1954, which is embodied in 10 U.S.C.A., Section 555 et seq., reads, in part:

(a) The regular warrant officer grades in each armed force corresponding to the pay grades prescribed for warrant officers by section 201(b) of title 37 are as follows:

- Warrant officer grade:
- Chief warrant officer, W-4
 - Chief warrant officer, W-3
 - Chief warrant officer, W-2
 - Warrant officer, W-1

(b) Permanent appointments of regular warrant officers, W-1, shall be made by warrant by the Secretary concerned. Permanent appointments of regular chief warrant officers shall be made by commission by the President.

In summary, a "chief warrant officer" is a warrant officer in pay grades W-2 through W-4; and, is commissioned by the President.

Conclusion:

Chief Warrant Officers (grades W-2 through W-4) are commissioned officers within the meaning of Code Section 12-35-550(25).

SOUTH CAROLINA TAX COMMISSION

s/S. Hunter Howard Jr
S. Hunter Howard, Jr., Chairman

s/A. Crawford Clarkson Jr.
A. Crawford Clarkson, Jr., Commissioner

s/T. R. McConnell
T. R. McConnell, Commissioner

Columbia, South Carolina
January 10, 1990