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State of South Carolina  
**Department of Revenue**  
301 Gervais Street, P. O. Box 125, Columbia, South Carolina 29214

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SC PRIVATE LETTER RULING #98-1

TO: ABC Corporation

SUBJECT: Imaging Service  
(Sales & Use)

DATE: February 3, 1998

REFERENCE: S. C. Code Ann. Section 12-36-910(A) (Supp. 1996)  
S. C. Code Ann. Section 12-36-1310(A) (Supp. 1996)  
S. C. Code Ann. Section 12-36-60 (Supp. 1996)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (Supp. 1996)  
SC Revenue Procedure #97-8

SCOPE: A Private Letter Ruling is an official advisory opinion issued by the Department of Revenue to a specific person.

NOTE: A Private Letter Ruling may only be relied upon by the person to whom it is issued and only for the transaction or transactions to which it relates. A Private Letter Ruling has no precedential value.

Question:

Are charges by a digital imaging company to the ABC Corporation (“ABC”) for images used to produce newspaper inserts subject to the South Carolina sales or use tax?

Conclusion:

No. The charges are not subject to the South Carolina sales or use tax.

Facts:

ABC, a retailer of tangible personal property, has contracted with a company to produce images that will ultimately be used to create newspaper inserts to advertise ABC’s products. The company ABC has contracted with uses digital imaging technology to produce the images necessary for the inserts.

The imaging company has equipment at ABC's business location near Myrtle Beach, South Carolina that is used to produce the necessary images. The equipment remains the property of the imaging company and is used by employees of the imaging company.

The imaging company uses sophisticated digital equipment and technology to transfer images of ABC's products into a computer at ABC's location. ABC adds text to create electronic pages which become part of the final insert. Once this is done, ABC examines the pages on the computer monitor and, if necessary, the imaging company will make adjustments to the pages. Nothing tangible is produced or transferred by the imaging company in South Carolina.

Once the electronic pages are approved by ABC, the imaging company transfers them electronically to an out-of-state location where they are used to produce print-ready color separations (negatives). These negatives are then sent by the imaging company to a printer that is also located outside of South Carolina. The printer, in turn, uses the negatives to produce the newspaper inserts which the printer delivers to various newspapers.

ABC has separate contracts with the imaging company and with the out-of-state printer. The imaging company and the printer are separate and distinct businesses.

In summary, transfers of information and images between ABC and the imaging company are accomplished entirely by electronic means. All images are electronically produced and transferred with all information recorded and moved in computer files.

ABC has asked the Department to determine whether the charges by the imaging company for producing the images are subject to the sales or use tax.

Discussion:

Code Section 12-36-910(A) imposes the South Carolina sales tax on "every person engaged or continuing within this State in the business of selling tangible personal property at retail."

Code Section 12-36-1310(A) imposes the South Carolina use tax on "the storage, use, or other consumption in this State of tangible personal property purchased at retail for storage, use, or other consumption in this State."

In other words, for the sales tax to be imposed there must be a retail sale of tangible personal property in this state. For the use tax to be imposed, tangible personal property must be stored, used or consumed in this state.

As explained above, the imaging company does not sale tangible personal property to ABC in this State and ABC does not store, use or consume tangible personal property in this State that has been purchased from the imaging company. Therefore, the South Carolina sales and use taxes do not apply to the charges imposed by the imaging company.

NOTE: The Department was not asked to address the transactions between ABC and the out-of-state printer. However, for purposes of completeness, we will address that issue. It is longstanding administrative practice not to tax purchases of newspaper inserts when they are delivered from the printer to the newspaper. In such cases, the inserts become part of the newspaper and sales of newspapers are exempt from tax [Section 12-36-2120(8)]. Based on this longstanding practice and above facts, purchases of the inserts by ABC are not subject to tax. However, if inserts or other advertising material is delivered directly to ABC, then purchases of such materials are subject to tax. Also, if ABC directs the printer to mail advertising materials directly to ABC's customers or to potential customers in South Carolina, such purchases are subject to tax.