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SC INFORMATION LETTER #90-31

TO: Vicki Jinnette Ringer
Public Information Director

FROM: John P. McCormack, Tax Manager
Tax Policy and Appeals Department

DATE: August 7, 1990

SUBJECT: Maximum Tax - Research and Development Machinery
(Sales and Use Tax)

REFERENCE: 1986 Act No. 550, Section 1
S.C. Code Ann. Section 12-36-5 et. seq. (Enacted June, 1990)

AUTHORITY: S.C. Code Section 12-3-140 (1976)
SC Revenue Procedure #87-3

SCOPE: An Information Letter is a temporary document issued for the purpose of disseminating general tax information and to respond to technical questions from within the Commission which are not related to a specific set of facts.

Section 1 of Act No. 550 of 1986 provides a maximum tax of \$300, with respect to sales and use tax, for certain research and development machinery, and reads:

For the period beginning July 1, 1986 and ending June 30, 1991, the maximum tax levied pursuant to Chapter 35 of Title 12 [Sales and Use Tax] of the 1976 Code on the sales and use of each item of machinery for research and development is three hundred dollars. As used in this section, "machinery for research and development" means machinery used directly and exclusively in research and development in the experimental and laboratory sense for new products, new uses for existing products, or for improving existing products. To be eligible for the limitation imposed by this section, the machinery must be located in a separate facility devoted exclusively to research and development as defined in this section. The limitation does not extend to machinery used in connection with efficiency surveys, management studies, consumer surveys, economic surveys, advertising, promotion, or research in connection with literary, historical, or similar projects.

Temporary provisions are not generally codified; therefore, this statute was not codified into Chapter 35 of Title 12 of the Code, the South Carolina sales and use tax law. Likewise, the provisions of this Act were not incorporated in the recodified sales and use tax law now found in Chapter 36 of Title 12. Chapter 36 of Title 12 became effective July 1, 1990.

However, the provisions of this Act are still in effect, and taxpayers selling or purchasing qualifying research and development machinery are entitled to the limitations imposed by the Act (\$300.00 maximum tax) until June 30, 1991.