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SC INFORMATION LETTER #91-30

TO: Vicki Ringer
Public Information Director

FROM: Deana West, Tax Analyst
Tax Policy and Appeals Department

DATE: December 9, 1991

SUBJECT: Sale of Motor Vehicles, Trailers, Semitrailers and Pole Trailers to
Nonresidents
(Sales Tax)

SUPERCEDES: SC Information Letter #91-23

REFERENCE: S. C. Code Ann. Section 12-36-930 (Supp. 1990)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (Enacted June 1991)
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.

For South Carolina sales tax purposes, sales to nonresidents of motor vehicles, trailers, semitrailers and pole trailers that are to be registered and licensed in the purchaser's state of residence, are taxed at the lesser of the (1) sales tax which would be imposed on the sale in the purchaser's state of residence or (2) tax that would be imposed under Chapter 36 of the South Carolina Code of Laws. No sales tax is due in South Carolina, however, if a nonresident purchaser cannot receive a credit in his resident state for sales tax paid to South Carolina.

The states listed below recently had legislative changes concerning sales and use tax:

1. Effective August 1, 1991, Maine's sales and use tax rate was increased from 5.0% to 6.0%.
2. Effective September 1, 1991, Texas's sales and use tax rate was increased from 6.0% to 6.25%.

3. Effective October 1, 1991, Connecticut's sales and use tax rate was decreased from 8.0% to 6.0%. However, effective August 22, 1991, the sales and use tax rate was 6% on the sale, rental, and lease of all motor vehicles, new or used, made by a motor vehicle dealer or rental agency on or after August 22, 1991.

Connecticut also added a sales tax exemption, applicable to sales occurring on or after October 1, 1991, for sales, rentals and leases of commercial trucks, truck tractors and semitrailers, and vehicles used in combination therewith that (1) have a gross vehicle weight rating in excess of 26,000 pounds, or (2) are operated actively and exclusively in carrying interstate freight pursuant to a certificate or permit issued by the Interstate Commerce Commission.

Attached are updated charts that provide sales tax rates by state, worksheets to assist in calculating the tax due and allowable sales tax deductions, and general information designed to assist motor vehicle dealers in calculating the tax due on sales to nonresidents.

This information letter rescinds SC Information Letter #91-23.

SALES OF TRAILERS, SEMITRAILERS AND POLE TRAILERS TO
NONRESIDENTS(Code Section 12-36-930)

Sales of trailers, semitrailers and pole trailers, of a type to be registered and licensed, to residents of the following states are not subject to the South Carolina sales tax:

Alaska	Iowa	Nevada	Oregon
Arkansas	Kentucky	New Hampshire	South Dakota
Delaware	Maryland	New Mexico	Vermont
District of Columbia	Minnesota	North Carolina	Virginia
Indiana	Montana	Oklahoma	West Virginia

Sales of trailers, semitrailers and pole trailers, of a type to be registered and licensed, to residents of the following states are subject to the South Carolina sales tax. The maximum tax on the sale of trailers or semitrailers pulled by a truck tractor is the lesser of 5% x (S-T) or \$300.00. The maximum tax on the sale of pole trailers and trailers or semitrailers pulled by a vehicle other than a truck tractor is 6% x (S-T) for sales in a local option tax county and 5% x (S-T) for sales in a non local option tax county. The sales tax rates by state are listed below:

<u>State</u>	<u>State</u>	<u>Measure</u>	<u>State</u>	<u>State</u>	<u>Measure</u>
	<u>Rate(%)</u>	<u>of Tax</u> *		<u>Rate(%)</u>	<u>of Tax</u> *
Alabama	2.0	S-T (1)	Mississippi	6.0/3.0	S-T
Arizona	5.0	S-T	Missouri	4.225	S-T
California	6.0	S	Nebraska	5.0	S-T
Colorado	3.0	S-T	New Jersey	7.0	S-T
Connecticut	6.0	S-T	New York	4.0	S-T
Florida	6.0	S-T	North Dakota	5.0	S-T
Georgia	4.0	S-T	Ohio	5.0	S-T
Hawaii	4.0	S-T	Pennsylvania	6.0	S-T
Idaho	5.0	S-T	Rhode Island	7.0	S
Illinois	6.25	S-T	Tennessee	5.5	S-T
Kansas	4.25	S-T	Texas	6.25	S-T
Louisiana	4.0	S-T	Utah	5.0	S-T
Maine	6.0	S	Washington	6.5	S-T
Massachusetts	5.0	S-T	Wisconsin	5.0	S-T
Michigan	4.0	S	Wyoming	3.0	S-T

* S = Sales Price T = Trade-in Allowance

(1) Sales of semitrailers are taxed at the rate of 3%. All other trailers are taxed at 6%.

(Revised 12/91)

SALES OF MOTOR VEHICLES TO NONRESIDENTS
(Code Section 12-36-930)

Sales of motor vehicles, as defined in Code Section 56-1-10, to residents of the following states are not subject to the South Carolina sales tax:

Alaska	Iowa	Montana	Oklahoma
Arkansas	Kentucky	Nevada	Oregon
Delaware	Maryland	New Hampshire	South Dakota
District of Columbia	Minnesota	New Mexico	Virginia
Indiana	Mississippi	North Carolina	West Virginia

Sales of motor vehicles, as defined in Code Section 56-1-10, to residents of the following states are subject to the South Carolina sales tax. The maximum tax on the sale of motor vehicles is the lesser of 5% x (S-T) or \$300.00. The sales tax rates by state are listed below:

<u>State</u>	<u>State</u> <u>Rate(%)</u>	<u>Measure</u> <u>of Tax *</u>	<u>State</u>	<u>State</u> <u>Rate(%)</u>	<u>Measure</u> <u>of Tax *</u>
Alabama	2.0	S-T	Missouri	4.225	S-T
Arizona	5.0	S-T	Nebraska	5.0	S-T
California	6.0	S	New Jersey	7.0	S-T
Colorado	3.0	S-T	New York	4.0	S-T
Connecticut	6.0	S-T	North Dakota	5.0	S-T
Florida	6.0	S-T	Ohio	5.0	S-T
Georgia	4.0	S-T	Pennsylvania	6.0	S-T
Hawaii	4.0	S-T	Rhode Island	7.0	S-T
Idaho	5.0	S-T	Tennessee	5.5	S-T
Illinois	6.25	S-T	Texas	6.25	S-T
Kansas	4.25	S-T	Utah	5.0	S-T
Louisiana	4.0	S-T (1)	Vermont	5.0	S-T
Maine	6.0	S-T	Washington	6.5	S-T
Massachusetts	5.0	S-T	Wisconsin	5.0	S-T
Michigan	4.0	S	Wyoming	3.0	S-T

* S = Sales Price T = Trade-in Allowance

(1) Effective from July 1, 1991 through June 30, 1993, the Vermont motor vehicle purchase and use tax rate is increased from 4% to 5%. Sales tax applies to passenger cars and passenger vans only. The tax does not apply to school buses, mo-peds, motorcycles, small trucks, motor trucks, tractors or any other motor vehicle primarily designed to transport property.

(Revised 12/91)

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 (Per Chart) _____%

Trade-in Allowed (Per Chart) _____ Yes _____ No

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

1. Sales Price (Enter amount on Form ST-3, Line 1)
2. Less: Trade-in (if allowed in purchaser's state, per chart)
3. Measure of Tax (Line 1 less Line 2)
4. Multiply by Purchaser's State Sales Tax Rate
5. Tax Due Based on Purchaser's State Sales Tax Rate

Computation of Maximum Tax

6. Sales Price (Line 1)
7. Less: Trade-in (if seller accepts trade-in, whether or not allowed per chart)
8. Measure of Tax (Line 6 less line 7)
9. Multiply by SC Sales Tax Rate, add 1% local option 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)

WORKSHEET: SALES OF MOTOR VEHICLES TO NONRESIDENTS

Purchaser's Name

Purchaser's State of Residence

Purchaser's State Sales Tax Rate (Per Chart) _____%

Trade-in Allowed (Per Chart) ____ Yes ____ No

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

1. Sales Price (Enter amount on ST-3, Line 1)
2. Less: Trade-in (if allowed in purchaser's state, per chart)
3. Measure of Tax (Line 1 less line 2)
4. Multiply by Purchaser's State Sales Tax Rate
5. Tax Due Based on Purchaser's State Sales Tax Rate

Computation of Maximum Tax

6. Sales Price (Line 1)
7. Less: Trade-in (if seller accepts trade-in, whether or not allowed per chart)
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 OF TRAILERS AND SEMITRAILERS
PULLED BY A TRUCK TRACTOR TO NONRESIDENTS

Purchaser's Name

Purchaser's State of Residence

Purchaser's State Sales Tax Rate (Per Chart) _____%

Trade-in Allowed (Per Chart) ____ Yes ____ No

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

1. Sales Price (Enter amount on Form ST-3, Line 1)
2. Less: Trade-in (if allowed in purchaser's state, per chart)
3. Measure of Tax (Line 1 less Line 2)
4. Multiply by Purchaser's State Sales Tax Rate
5. Tax Due Based on Purchaser's State Sales Tax Rate

Computation of Maximum Tax

6. Sales Price (Line 1)
7. Less: Trade-in (if seller accepts trade-in, whether or not allowed per chart)
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)

GENERAL INFORMATION CONCERNING SALES AND USE TAX

SALES TAX, USE TAX, LOCAL OPTION TAX AND CASUAL EXCISE TAX

1. Sales Tax: The sales tax is imposed upon every person selling tangible personal property at retail. The South Carolina sales tax rate is 5%. The sales tax is also imposed on the fair market value of items, originally purchased at wholesale, that are withdrawn for use by the business or any person. However, the tax on withdrawals for use does not apply to (1) items previously withdrawn for use and taxed by the business or person; (2) tangible personal property replacing a defective part under a written warranty contract if the contract was given without charge at the time of purchase of the defective part, the tax was paid at the time of purchase, and the warrantee is not charged for any labor or materials; and, (3) a new motor vehicle used by a dealer as a demonstrator.
2. Use Tax: The use tax is imposed on the storage, use, or consumption of tangible personal property, purchased at retail, for storage, use or consumption in South Carolina. The use tax is 5% of the sales price of the property and is the liability of the purchaser. However, if the purchaser has a receipt from a seller authorized to collect the State use tax showing the seller has collected the tax from the purchaser, the purchaser is relieved of the liability for the tax.
3. Local Option Sales and Use Tax: Sales of motor vehicles and trailers that are subject to the \$300.00 maximum tax are not subject to the local option sales and use tax. However, all other sales in a local option tax county by dealers are subject to the 1% local option tax. For example, pole trailers, and trailers or semitrailers capable of being pulled by a vehicle other than a truck tractor, are not entitled to the \$300.00 maximum tax and therefore are subject to the local option sales and use tax in addition to the 5% State sales tax.
4. Casual Excise Tax: The casual excise tax is imposed upon the issuance of a certificate of title or other proof of ownership for every motor vehicle required to be registered, titled or licensed. The tax is 5%
of the fair market value of the motor vehicle. The tax is not imposed on transactions upon which the sales or use tax has been paid. In addition, transactions exempt from the sales and use tax are exempt from the casual excise tax.

SALES TO RESIDENTS OF OTHER STATES

Sales of motor vehicles, trailers, semitrailers and pole trailers that are to be registered and licensed in the purchaser's state of residence are taxed at the lesser of the (1) sales tax which the purchaser would have paid had the motor vehicle been purchased in his state of residence or (2) sales tax that a South Carolina resident would pay on the purchase. See discussion below on maximum sales tax imposed.

SALES TO RESIDENTS OF OTHER COUNTRIES

Sales of motor vehicles, trailers, semitrailers and pole trailers to residents of possessions of the United States or other countries are subject to South Carolina sales tax at the rate that a South Carolina resident would pay on the purchase.

MOTOR VEHICLES AND TRAILERS SUBJECT TO THE MAXIMUM TAX

The South Carolina sales and use tax imposed may not exceed \$300.00 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, limited to a maximum of 160 net engine horsepower. Equipment that is used for maintenance, and not construction, does not qualify for the \$300.00 maximum tax.

Motor vehicles and trailers, that are entitled to the \$300.00 cap if sold, are entitled to the \$300.00 cap when leased provided the lease specifically states a term of, and remains in force for, a period of ninety continuous days.

MOTOR VEHICLES AND TRAILERS NOT SUBJECT TO THE MAXIMUM TAX

The South Carolina sales and use tax imposed may exceed \$300.00 on sales of:

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

SALES NOT SUBJECT TO SALES AND USE TAX

1. Sales of motor vehicles, trailers, semitrailers and pole trailers that are delivered out-of-state by the dealer at the purchaser's direction.
2. Sales of motor vehicles, trailers, semitrailers and pole trailers to dealers 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.
3. Sales of motor vehicles to military personnel stationed in this State by reason of orders of the U.S. Armed Forces who are not residents of South Carolina are exempt from South Carolina sales and use tax provided the dealer is furnished a completed Form ST-178, "Nonresident Military Tax Exemption Certificate". The certificate must be furnished within ten days of the sale and completed by a commissioned officer of the Armed Forces of a higher rank than the purchaser. This exemption does not apply to sales of trucks, vans not designed primarily to carry passengers, and trailers.

DEFINITIONS

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

1. Motor Vehicle - Every vehicle which is self-propelled, except mopeds, and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.
2. Vehicle - Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.
3. Trailer - Every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.
4. Semitrailer - Every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.
5. Pole Trailer - Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes or structural members capable, generally, of sustaining themselves as beams between the supporting connections.
6. Truck Tractor - Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.