



301 Gervais Street, P.O. Box 125, Columbia, South Carolina 29214

SC PRIVATE LETTER RULING #89-10

TO: XYZ

SUBJECT: Sales of Horse/Cattle Trailers and Semitrailers - \$300 Cap
(Sales Tax)

REFERENCE: S.C. Code Ann. Section 12-35-516 (1987 Supp.)
S.C. Code Ann. Section 56-3-20 (1976)

AUTHORITY: S.C. Code Ann. 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:

Are sales of "bumper-pull" and/or "gooseneck" type vehicles by XYZ entitled to the \$300 sales tax cap, pursuant to Code Section 12-35-516?

Facts:

S.C. Code Section 12-35-516 reads, in part:

In case of the sale or lease of any (1) aircraft, (2) motor vehicle, (3) motorcycle, (4) boat, (5) trailer or semi-trailer pulled by a truck tractor as each is defined in Section 56-3-20...the maximum tax levied by this chapter is three hundred dollars...(emphasis added).

S.C. Code Section 56-3-20 provides the following definitions:

"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;

"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;

"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;

XYZ sells several different types of vehicles, some of which are "bumper-pull" types, and some of which are "gooseneck" types. The "bumper-pull" types are attached to a motor vehicle by means of a trailer hitch. The "gooseneck" types are attached so that the towing vehicle bears a portion of the towed vehicle's weight.

Discussion:

The issue is whether or not the "bumper-pull" type vehicles and the "gooseneck" type vehicles, sold by XYZ, constitute "trailers or semi-trailers pulled by a truck tractor".

In reviewing Code Section 12-35-516, it must be determined whether or not trailers or semitrailers may only be pulled by a truck tractor or whether they may also be pulled by other vehicles.

To resolve this issue, it is necessary to look to rules of statutory construction.

The following quotes are from 73 Am Jur 2d, Statutes:

Section 200. It is a general rule that the courts, in the interpretation of a statute, may not take, strike, or read anything out of a statute, or delete, subtract, or omit anything therefrom. To the contrary, it is a cardinal rule of statutory construction that significance and effect should, if possible, be accorded to every word, phrase, sentence and part of an act.

Section 249. In the construction of statutes, the courts start with the assumption that the legislature intended to enact an effective law, and the legislature is not to be presumed to have done a vain thing in the enactment of a statute. Hence, it is a general principle that the courts should, if reasonably possible to do so interpret the statute, or the provision being construed, so as to give it efficient operation and effect as a whole. An interpretation should, if possible, be avoided, under which the statute or provision being construed is defeated, or as otherwise expressed, nullified, destroyed, emasculated, repealed, explained away, or rendered insignificant, meaningless, inoperative, or nugatory.

Section 250. In the interpretation of a statute, the legislature will be presumed to have inserted every part thereof for a purpose. A statute should not be construed in such manner as to render it partly ineffective or inefficient if another construction will make it

effective. Indeed, it is a cardinal rule of statutory construction that significance and effect should, if possible, without destroying the sense or effect of the law, be accorded every part of the act, including every section, paragraph, sentence or clause, phrase, and word.

In summary, it is presumed that the legislature inserts words and phrases in statutes for a purpose; and, the courts may not delete any such words and phrases. Also, in interpreting statutes, it is necessary to consider all language contained in the statute.

Applying these rules to the question at hand, it must be presumed that the phrase "pulled by a truck tractor" was inserted by the Legislature for a reason. If the Legislature had not intended to qualify the conditions for enjoying the cap, then the subject phrase could have simply been omitted. Therefore, the cap applies to sales of those vehicles which may only be pulled by truck tractors.

"Bumper-pull" vehicles

The difference between a trailer and a semitrailer, as defined at Code Section 56-3-20, is that a trailer is "so constructed that no part of its weight rests upon the towing vehicle". A semitrailer, however, is "so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle."

The so-called "bumper-pull" type vehicles sold by XYZ are attached to a towing vehicle by means of a hitch, and no part of their weight rests upon the towing vehicle. Therefore, the "bumper-pull" type vehicles meet the definition of the term "trailer", and, according to information provided by the taxpayer, are not designed to be pulled by truck tractors.

"Gooseneck" vehicles

The so-called "gooseneck" type vehicles, sold by XYZ, are "semitrailers". These vehicles are "so constructed that some part of [their] weight and that of [their] load rests upon or is carried by another vehicle". However, there are two types of gooseneck semitrailers sold by the taxpayer - "ball mounts" and "fifth wheels".

"Ball mount" type semitrailers are usually attached to the towing vehicle by means of a hitch, similar to the type used to tow "bumper-pull" type trailers. The difference being that the ball is attached to the bed of a pickup truck, as opposed to the bumper. However, some "ball mount" types are modified in such a fashion so as to be pulled by a truck tractor, as well as, a pickup truck.

"Fifth wheel" type semitrailers are attached to a plate, which is in turn attached to the towing vehicle. These semitrailers may be towed by either a pickup truck or a truck tractor.

In summary, none of the "gooseneck" type vehicles in question may be pulled exclusively by a truck tractor.

Conclusion:

The type of trailers and semitrailers sold by XYZ are not entitled to the \$300 sales tax cap, pursuant to Code Section 12-35-516.

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
May 25 _____, 1989