



SC REVENUE RULING #91-3

SUBJECT: Laundry and Dry Cleaning (Valet) Services Provided to Hotel Guests
(Sales Tax)

TAX MANAGER: Jerry Knight

EFFECTIVE DATE: May 1, 1990

SUPERSEDES: SC Information Letter #89-25 and all previous documents and any oral directives in conflict herewith.

REFERENCE: S.C. Code Ann. Section 12-36-910(B)(1) (Effective July 1, 1990)
S.C. Code Ann. Section 12-36-920(A) (Effective July 1, 1990)
S.C. Code Ann. Section 12-36-920(B) (Effective July 1, 1990)

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

SCOPE: A Revenue Ruling is the Commission's official interpretation of how tax law is to be applied to a specific set of facts. A Revenue Ruling is public information and remains a permanent document until superseded by a Regulation or is rescinded by a subsequent Revenue Ruling.

Questions:

1. Are charges billed by laundries and dry cleaners to hotels for services provided to the hotels' guests subject to the sales tax, pursuant to Code Section 12-36-910(B)(1)?
2. When hotels bill their guests for laundering and dry cleaning ("valet") services, are such charges subject to the sales tax?
3. If the answer to question #2 is "yes", what is the appropriate tax rate - 5% or 7%?

Facts:

Many hotels contract with independent laundries and dry cleaning establishments to clean their guests' clothing. These services are commonly referred to as "valet services".

Typically, the guests will place their clothing in a bag to be picked up by a hotel employee. The hotel then delivers the clothing to the laundry or dry cleaners (hereafter referred to as "cleaners"). The hotel, on receipt of the clean clothing, or on a periodic basis, will pay the cleaners for its services. The hotel, in turn, bills its guests for the services. The amount billed by the hotel may only be that charged by the cleaners, or may include an additional charge for providing the service.

Discussion:

Laundering and dry cleaning services are taxed at Code Section 12-36-910(B)(1), which reads, in part:

The sales tax also applies to the gross proceeds accruing or proceeding from the business of providing any laundering [or] dry cleaning...service...

S.C. Code Section 12-36-920(A) reads, in part:

A sales tax equal to seven percent is imposed on the gross proceeds derived from the rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients....for a consideration.

* * * *

The tax imposed by this subsection (A) does not apply to additional guest charges as defined in subsection (B).

As a result of recodification and a May 1, 1990 amendment, Code Section 12-36-920(B) reads:

A sales tax of five percent is imposed on additional guest charges at any place where rooms, lodgings, or accommodations are furnished to transients for a consideration, unless otherwise taxed under this chapter. The term "additional guest charges" includes, but is not limited to:

- (a) room service;
- (b) amenities;
- (c) entertainment;
- (d) special items in promotional tourist packages;
- (e) laundering and dry cleaning services;
- (f) in-room movies;
- (g) telephone charges;
- (h) rentals of meeting rooms; and
- (i) other guest charges. (emphasis added)

Prior to the May 1st amendment, only "meals and other special items in promotional tourist packages or the rental of meeting rooms" were taxed at the 5% rate. Other gross proceeds derived from the rental or charges for accommodations were taxed at 7%.

Before addressing the specific questions at hand, it is helpful to discuss applicability of the sales and use taxes to cleaners and hotels, in general.

Code Section 12-36-910(A) imposes the sales tax "upon every person engaged or continuing within this State in the business of selling tangible personal property at retail". By definition (Code Section 12-36-60), "laundry and related services" are tangible personal property; and, Code Section 12-36-70 defines the term "retailer", in part, as "every person furnishing accommodations to transients for a consideration" and, as "every person operating a laundry [or] cleaning establishment for a consideration".

The terms "sale at retail" and "retail sale" are defined at Code Section 12-36-110, in part, as "all sales of tangible personal property except those defined in this article as wholesale sales". The term "wholesale sale" is defined at Code Section 12-36-120, in part, as "a sale of tangible personal property to licensed retail merchants...for resale, and do not include sales to users or consumers".

In summary, sales to the end user or consumer are subject to the sales tax (retail); whereas sales of items for subsequent resale (wholesale) are not subject to taxation.

Regulation 117-174.101 pertains to the applicability of the sales and use taxes to hotels and reads, in part:

Hotels, lodging houses, apartment houses, tourist camps and the like are subject to the sales or use tax, whichever may apply at the time of purchase for use or consumption of beds, bedding, carpets, shades, curtains, linens, uniforms, supplies, fuel for heating and cooking, air conditioning equipment, etc.

In other words, hotels sell a service (accommodations) subject to the sales tax and, in so doing, are also users or consumers of tangible personal property purchased by them which is used in providing the accommodations. Such purchases, by definition, are retail transactions subject to the sales or use tax.

As for the first question (sales by cleaners to hotels), it must be determined if the laundering and dry cleaning services are being used by the hotel in providing its services (accommodations) or whether the hotel is purchasing the laundering and dry cleaning services for resale to its guests, as a separate and distinct service from that of providing the rooms or sleeping accommodations.

If it is determined that the hotel sells, or rents, the laundering and dry cleaning services simultaneously with, and as an integral part of, the rooms, then such services are being used or consumed by the hotel and are subject to the tax as retail sales of tangible personal property from the cleaners to the hotel.

However, if the laundering and dry cleaning services are provided (sold) by the hotels independently of the rooms, then such services are not part of the accommodation services and are, therefore, sales for resale to the hotel, which are not subject to the tax.

A review of the aforementioned Regulation 117-174.101 and pertinent case law [Hotels Statler Co., Inc. v. District of Columbia, 91 U.S. App. D.C. 122, F.2d 172; Atlanta Americana Motor Hotel Corp. v. Undercofler, 149 S.E.2d 691 (1966); and Kentucky Board of Tax Appeals v. Brown Hotel Company, 528 S.W.2d 715 (1975)] reveals only those items which are physically contained in, or an integral part of, the rooms (e.g. beds, linens, tables, paper products, telephone services, electricity, etc.) are used or consumed by the hotels in providing accommodations. Likewise, items such as lobby furniture, restaurant equipment, cash registers, office supplies and cleaning supplies are used or consumed by hotels. As valet services are merely made available to the guests as an adjunct to the hotel's primary business (the providing of rooms), they are not part of the room being rented. Therefore, sales to hotels of laundering and dry cleaning services are not sales at retail. The transactions between the cleaners and hotels are wholesale transactions and the subsequent transactions between the hotels and their guests (valet services) are retail transactions subject to taxation.

Having established that sales of the valet services between the hotels and their guests are retail sales subject to taxation, we may look to the statute to determine whether such sales are taxable at 5% or 7%.

Again, quoting from Code Section 12-36-920(B), "[a] sales tax of five percent is imposed on additional guest charges at any place where rooms, lodgings, or accommodations are furnished....The term 'additional guest charges' includes....laundering and dry cleaning services".

Conclusions:

1. Sales by laundries and dry cleaners of their services to hotels for the hotels' guests are not subject to the sales tax. Such sales are wholesale sales (sales for resale).

NOTE: Charges by laundries and dry cleaners to hotels for cleaning the sheets, pillow cases, linens, etc. of the hotel are subject to the sales tax, as such services are used or consumed by the hotel.

2. Sales of laundering and dry cleaning services ("valet services") by hotels to their guests are subject to the sales tax.
3. Charges for valet services by hotels to their guests are taxable at 5%, pursuant to Code Section 12-36-920(B).

NOTE: Prior to issuance of this document, Commission policy was to tax the transactions between the cleaners and the hotels and not to tax the charges by the hotels to their guests for

valet services. (See Commission Decision dated October 22, 1987.) Therefore, those taxpayers following past policy for the period May 1, 1990 through April 30, 1991 will not be assessed for any taxes which may be due as a result of following that policy.

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
February 13, 1991