

SC INFORMATION LETTER #09-10

SUBJECT: Energy Star Sales Tax Holiday Eliminated

DATE: June 5, 2009

SUPERSEDES: All previous advisory opinions and any oral directives in conflict herewith.

AUTHORITY: S. C. Code Ann. Section 12-4-320 (2000; Supp. 2008)
SC Revenue Procedure #09-3

SCOPE: An Information Letter is a written statement issued to the public to announce general information useful in complying with the laws administered by the Department. An Information Letter has no precedential value.

During the 2008 legislative session, the General Assembly established an Energy Star Sales Tax Holiday.

This month-long sales tax holiday would have applied to purchases of certain specific energy efficient products (*e.g.*, dishwashers, clothes washers, air conditioners, ceiling fans, fluorescent light bulbs, etc.) and would have taken place every October beginning in 2009, provided revenue growth forecasts for state government met or exceeded certain levels.

However, on May 4, 2009, the South Carolina Supreme Court ruled that the act authorizing the Energy Star Sales Tax Holiday was unconstitutional.¹ As such, the Energy Star Sales Tax Holiday has been eliminated.

¹ *The American Petroleum Institute and BP Products North America Inc v. South Carolina Department of Revenue, et al.* (Opinion No. 26645, May 4, 2009). As a result of the decision in this case, the Second Amendment Sales Tax Holiday was also eliminated. However, the General Assembly subsequently included a Second Amendment Sales Tax Holiday in the 2009 – 2010 State Appropriations Act (House Bill 3560 of 2009, Part 1B, Section 89, Proviso 89.135). This two-day Second Amendment Sales Tax Holiday applies to purchases of handguns (as defined in Code Section 16-23-10(1)), rifles and shotguns and will take place on the Friday and Saturday after Thanksgiving - November 27th and 28th of 2009.

This “new” Second Amendment Sales Tax Holiday was enacted as a temporary proviso; therefore, it will not take place in subsequent years unless the General Assembly re-enacts the temporary proviso or codifies a new Second Amendment Sales Tax Holiday exemption.