



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 12265, Columbia, South Carolina 29211

SC INFORMATION LETTER #15-19

SUBJECT: Expiration of Distribution Facility “Safe Harbor” for Nexus Purposes
(Sales and Use Tax)

DATE: December 2, 2015

REFERENCE: S. C. Code Ann. Section 12-36-2691 (2014)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (2014)
S. C. Code Ann. Section 1-23-10(4) (2005)
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.

Code Section 12-36-2691, enacted in 2011, provided, subject to certain large capital investment and job creation requirements before January 1, 2013, that owning, leasing or utilizing a distribution facility in South Carolina, including a distribution facility of a third party or an affiliate, is not considered in determining whether the person has a physical presence in South Carolina sufficient to establish nexus with South Carolina for sales and use tax purposes.

Code Section 12-36-2691(D) provides that Code Section 12-36-2691 no longer applies on the earlier of: January 1, 2016; when the person fails to meet the requirements of Code Section 12-36-2961(C) listed above; or the effective date of any law enacted by the United States Congress that allows a state to require that its sales tax be collected and remitted even if the taxpayer does not have substantial nexus with that state.

Effective January 1, 2016, the special nexus provision in Code Section 12-36-2691 no longer applies. As a result, owning, leasing or utilizing a distribution facility, including a distribution facility of a third party or an affiliate, within South Carolina is considered in determining nexus for South Carolina sales and use tax purposes.