



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

SC INFORMATION LETTER #89-15

TO: Vicki Jinnette
Public Information Officer

FROM: Jerry B. Knight, Manager
Tax Policy and Procedures Department

DATE: June 13, 1989

SUBJECT: Special Registration Program for Nonresident Retailers
(Use Tax)

REFERENCE: S.C. Code Ann. Section 12-35-95 (Supp. 1988)
Section 80, of Part II- 1989-90 Appropriations Bill

AUTHORITY: S.C. Code Ann. Section 12-3-140 (1976)
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.

Section 80 of Part II of the 1989-90 Appropriations Bill provides for a special registration program for "nonresident retailers", and reads:

For an unregistered nonresident retailer as defined in Section 12-35-95 of the 1976 Code who first applies before August 1, 1989, to the South Carolina Tax Commission for the purpose of registering to collect and pay South Carolina [use] tax, the liability for collecting and paying the tax begins on the date the nonresident retailer files the application.

Code Section 12-35-95, which defines "nonresident retailer", reads:

"Retailer", as defined in Section 12-35-90, includes a "nonresident retailer" as defined in this section. A nonresident retailer means and includes every person who does not maintain an office or location in this State but who solicits business either by direct representatives, indirect representatives, or manufacturers' agents, or by distribution of catalogs or other advertising matter or by any other means whatsoever and by reason thereof receives orders for tangible personal property from consumers for use,

consumption, distribution, and storage for use or consumption in this State. This nonresident retailer shall collect the tax imposed by this chapter from the purchaser, and no action either in law or in equity on a sale or trans- action as provided by the terms of this chapter may be had in this State by a nonresident retailer unless it is affirmatively shown that the provisions of this chapter have been fully complied with.

A nonresident retailer also shall obtain a retail license required by this chapter and, in obtaining this license, he is considered to have one branch or location in this State.

Therefore, any retailer qualifying as a "nonresident retailer", who registers to collect and remit this State's use tax prior to August 1, 1989, will not be held accountable for any use tax due and owed South Carolina prior to the date of application. In other words, the State of South Carolina has established a special use tax registration program, for "nonresident retailers", for the period of June 8, 1989 through July 31, 1989.

Any nonresident retailer failing to take advantage of this program, who has the requisite "nexus" with South Carolina, may be held accountable for all use tax due and owed the State, for all periods open under the statute.

Attached for the convenience of any nonresident retailer, wishing to take advantage of this program, is a copy of the Business Tax Application Form (Form SCTC- 111), which may be duplicated. Applicants should complete this form and submit it with a cover letter, stating they wish to participate in the "Special Registration Program for Nonresident Retailers", to:

SCTC- Nonresident Retailers
P.O. Box 12265
Columbia, South Carolina 29211-2265