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SC INFORMATION LETTER #89-35

TO: Vickie Jinnette
Public Information Director

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

DATE: December 7, 1989

SUBJECT: Sales Tax Exemption for Certain Organizations

REFERENCE: S.C. Code Section 12-35-550 [As Amended June, 1989]
SC Revenue Procedure #89-5

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

Code Section 12-35-550(48), effective July 1, 1989, exempts from the sales tax:

The gross proceeds of sales or purchases for resale by organizations exempt under Section 12-37-220A(3) and (4) and B(5), (6), (7), (8), (12), (16), (19), (22), and (24) if the net proceeds are used exclusively for exempt purposes and no benefit inures to any individual. An organization whose sales or purchases are exempted by this item is also exempt from the retail license tax provided in Article 3 of this chapter.

In summary, the exemption only applies to sales and purchases for resale by organizations which meet three requirements: (1) be exempt from the property tax under one of the enumerated property tax code sections; (2) net proceeds from the organization's sales must be used for exempt purposes; and, (3) no benefit may inure to any individual.

To enjoy the exemption at Code Section 12-35-550(48), organizations are required to complete and file Form ST-387 (copy attached). Additional application forms may be obtained at any South Carolina Tax Commission office or by calling 737-5080. An organization is not deemed to be exempt under the subject code section unless application has been made and an exemption certificate issued.

It is important to note that issuance of an exemption certificate under the above code section does not allow the organization to purchase property tax-free, which is not for resale.

The exemption certificate will have imprinted upon its face the following statement:

CERTIFICATE VALID ONLY IF ALL APPLY

- (1) PURCHASES WILL BE RESOLD
- (2) PROCEEDS ARE USED FOR AN EXEMPT PURPOSE
- (3) NO PROFIT WILL INURE TO ANY INDIVIDUAL

IMPROPER USE OF AN EXEMPTION CERTIFICATE:

Organizations, or individuals, using an exemption certificate improperly will be subject to all applicable taxes, interest and civil or criminal penalties. Such penalties are authorized by Chapter 54 of Title 12 of the South Carolina Code of Laws, and include penalties for failure to file a return, failure to pay the tax, and willful evasion of the tax.

NOTE: See SC Revenue Procedure #89-5