



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

SC INFORMATION LETTER #90-2

TO: Vicki Jinnette
Public Information Director

FROM: John McCormack, Manager
Tax Policy and Appeals Department

DATE: January 17, 1990

SUBJECT: Dental Prosthetic Devices
(Sales and Use Tax)

REFERENCE: S.C. Code Ann. Section 12-35-550(31) (Supp. 1988)

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.

Code Section 12-35-550(31) exempted from the tax, prior to July 1, 1989, the:

Gross proceeds from the sale of...prosthetic devices sold by prescription....
(emphasis added).

The section was amended, effective July 1, 1989, to specifically exempt "dental prosthetic devices" (with or without a prescription) from the tax.

The Court of Common Pleas, Aiken County, in the case of Dr. William J. Boykin v. South Carolina Tax Commission, Case No. 89-CP-02-590, held, on November 22, 1989, that "work authorizations issued by dentists [to dental labs] for prosthetic devices are prescriptions for purposes of Section 12-35-550(31)...".

The court's ruling effectively rescinds SC Revenue Ruling #88-9, which held sales of prosthetic devices, by a dental lab, to a dentist were subject to the tax. Therefore, dentists and dental labs will be entitled to a refund, if the following requirements are met.

Code Section 12-47-440 authorizes refunds of taxes erroneously paid when the taxpayer makes a written application for refund within a period of three years from the date such taxes were due, or one year from the date such taxes were paid, whichever is later. Taxpayers seeking a refund of taxes, pursuant to the court's ruling, should calculate the refund on a monthly basis (either the month such tax was due or the month such tax was paid), and forward any refund request to the following address:

South Carolina Tax Commission
Sales Tax Office Audit/Dental Refunds
P.O. Box 125
Columbia, South Carolina 29214

When requesting refunds, dentists and dental labs should keep in mind the following:

SALES BY OUT-OF-STATE DENTAL LABS: The dentist is the taxpayer and is the party which may apply for a refund, but the refund claim should include the name of the dental lab to whom the tax was paid.

SALES BY IN-STATE DENTAL LABS: The dental lab is the taxpayer and is the party which may apply for the refund.

However, the dental lab may assign its right to the refund to the dentist. Such assignment must be in writing and the original must be forward to the Commission, by the dentist, along with the refund claim.

SELF-ASSESSMENT PROGRAM: The dentist remitted the tax to the Commission under this program; therefore, the dentist is the taxpayer and is the party which may apply for the refund. The dentist should note in the refund claim that the tax was paid under the self-assessment program.

Dental labs selling tangible personal property, other than dental prosthetic devices, should continue to remit the tax on such sales. Dentists purchasing tangible personal property, other than dental prosthetic devices should remit the tax on such purchases, if the S.C. tax was not paid to the seller.

NOTE: Revenue Ruling #90-1 defines the term "dental prosthetic device".