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SC INFORMATION LETTER #90-25

TO: Vicki Jinnette Ringer
Public Information Director

FROM: John P. McCormack, Manager
Tax Policy Department

DATE: July 11, 1990

SUBJECT: Sales and Use Tax Recodification

REFERENCE: Chapter 35, Title 12, S.C. Code of Laws (1976, Supp. 1989)
Chapter 36, Title 12, S.C. Code of Laws (Enacted June 1990)

AUTHORITY: S.C. Code 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.

Effective July 1, 1990, the sales and use tax law has been rewritten (recodified). The law has not been changed in any substantive way; however, it has been greatly simplified by drastically reducing the number of words, updating the language and reorganizing and combining sections in a logical manner.

To repeat, this is not a new tax law, it is merely a simplification of the sales and use tax law, as amended through the 1990 legislative session.

Legislation enacted during the 1990 session, which has been made a part of this recodification bill, includes changes to the accommodations tax (See SC Information Letter #90-10) and the retail license tax (See SC Information Letter #90-24).

Attached is an outline of the recodified law containing a cross-reference of the old code sections (Chapter 35, Title 12) and new code sections (Chapter 36, Title 12), with a brief explanation of each section's content.

If there are any questions concerning this document, please telephone John McCormack or Jerry Knight at 803-737-4440.

RECODIFIED SALES AND USE TAX LAW CHAPTER 36, TITLE 12

Article 1 - Definitions

<u>Recodified Section #</u>	<u>Previous Section #</u>	<u>Section's Content</u>
12-36-5	N/A	Reads "This chapter may be cited as the South Carolina Sales and Use Tax Act".
12-36-10	12-35-10	Reads "The words, terms, and phrases defined in this article have the meaning provided, except when the context clearly indicates a different meaning".
12-36-20	12-35-20	Defines "business".
12-36-30	12-35-60	Defines "person".
12-36-40	12-35-150	Defines "taxpayer".
12-36-50	12-35-50	Defines "in this State" and "in the State".
12-36-60	12-35-140	Defines "tangible personal property".
12-36-70	12-35-90 12-35-95 12-35-830	Defines "retailer" and "seller".
12-36-80	12-35-80	Defines "retailer maintaining a place of business in this State."
12-36-90	12-35-30 12-35-40	Defines "gross proceeds of sales" and eliminates gross receipts".
12-36-100	12-35-70 12-35-100	Defines "sale" and "purchase".
12-36-110	12-35-110 12-35-125	Defines "sale at retail" and "retail sale".

<u>Recodified Section #</u>	<u>Previous Section #</u>	<u>Section's Content</u>
12-36-120	12-35-170	Defines "wholesale sale" and "sale at wholesale".
12-36-130	12-35-120	Defines "sales price".
12-36-140	12-35-130 12-35-160 12-35-165	Defines "storage" and "use".
12-36-150	N.A.	Defines "transient construction property".

Article 5 - Retail License

12-36-510	12-35-320 12-35-1127	Who is required to obtain a retail license and the tax amounts.
12-36-520	12-35-330	Requirement to make a cash deposit or post bond.
12-36-530	12-35-340 12-35-390	Requirement to return license upon closing or selling a business; and lien for unpaid taxes.
12-36-540	12-35-350	Information to be shown on application and provision that a license is needed for each location.
12-36-550	12-35-360 12-35-370 12-35-380	Validity of license; display of license; and license not assignable or transferable.

Article 9 - Sales Tax

<u>Recodified Section #</u>	<u>Previous Section #</u>	<u>Section's Content</u>
12-36-910	12-35-510 12-35-515 12-35-1110 12-35-1130 12-35-1140	Combined impositions of the sales tax on sales of tangible property, laundry services,

<u>Recodified Section #</u>	<u>Previous Section #</u>	<u>Section's Content</u>
	12-35-1150	electricity, communications, and property used by its manufacturer.
12-36-920	12-35-515 12-35-710 12-35-1120 12-35-1125	Imposition of sales tax on accommodations.
12-36-930	12-35-555	Sales tax on sales of motor vehicles, trailers, etc. to residents of other states.
12-36-940	12-35-610 12-35-620	Amounts which may be added to sales price and provision that seller still owes the tax whether or not the tax is collected from the purchaser.
12-36-950	12-35-630	Presumption that all gross proceeds are subject to tax, unless shown otherwise.

Article 13 - Use Tax

<u>Recodified Section #</u>	<u>Previous Section #</u>	<u>Section's Content</u>
12-36-1310	12-35-810(para 1) 12-35-515 12-35-815 12-35-1110 12-35-1130 12-35-1140 12-35-1150	Combined all sections which impose the use tax and the provision which allows for a credit for sales tax due and paid in another state.
12-36-1320	12-35-810 (paras 2 & 3)	Imposition of use tax on "transient construction property".
12-36-1330	12-35-850	Liability for the use tax and effect of receipt showing tax paid.
12-36-1340	12-35-890	Nonresident retailers who must collect and remit the use tax.

<u>Recodified Section #</u>	<u>Previous Section #</u>	<u>Section's Content</u>
12-36-1350	12-35-860 12-35-870	Use tax must be stated separately and seller may not advertise that the tax will be absorbed, added to selling price or refunded. "Debt owed by the seller to this State".
12-36-1360	12-35-900	Purchaser must file a return and remit tax if not charged by seller.
12-36-1370	12-35-930	Presumption that property was purchased for storage, use or consumption in this State.

Article 17 - Casual Excise Tax

12-36-1710	12-35-1710	Imposition of tax and exclusions.
12-36-1720	12-35-1720	Applies only to the last sale.

Article 21 - Maximum Tax and Exemptions

<u>Recodified Section #</u>	<u>Previous Section #</u>	<u>Section's Content</u>
12-36-2110	12-35-516 12-35-517 12-35-518 12-35-519	Maximum tax (cap) on sales of motor vehicles, boats, planes, etc. Also provisions concerning caps on leases and certain purchases by religious organizations.
12-36-2120 (Exemptions)	12-35-550	Exemptions from the sales and use taxes.
12-36-2120(1)	12-35-550(1)	Transactions prohibited from being taxed by federal or state law or the federal or state constitutions.
12-36-2120(2)	12-35-550(42)	Sales to the federal government.
12-36-2120(3)	12-35-550(2)&(29)	Textbooks, etc. sold to schools, and books, etc. sold to public libraries.

<u>Recodified Section #</u>	<u>Previous Section #</u>	<u>Section's Content</u>
12-36-2120(4)	12-35-550(3)	Sales of livestock.
12-36-2120(5)	12-35-550(4)	Feed used for production and maintenance of poultry and livestock.
12-36-2120(6)	12-35-550(5)	Insecticides, etc. for production of farm products or cultivation of poultry or livestock feed.
12-36-2120(7)	12-35-550(6)	Containers and labels for agricultural products, turpentine, etc.
12-36-2120(8)	12-35-550(7)	Newspapers, the Bible and the Department of Agriculture's Market Bulletin.
12-36-2120(9)	12-35-550(8)	Fuel used by manufacturers, electric power companies and transportation companies.
12-36-2120(10)	12-35-550(9)&(45)	Meals sold to school children and to the elderly and disabled.
12-36-2120(11)	12-35-550(10)	Toll charges, telegraph messages and access charges.
12-36-2120(12)	12-35-550(11) & (28)	Water sold by regulated utilities and nonprofit organizations.
12-36-2120(13)	12-35-550(13)	Fuel, lubricants and supplies used or consumed aboard ships.
12-36-2120(14)	12-35-550(14)	Packaging and containers used incident to the sale and delivery of tangible personal property.
12-36-2120(15)	12-35-550(16) & (35)	Fuel used by farmers and commercial fishermen. Also, sales of gasoline, fuel ethanol blends and certain other fuels.
12-36-2120(16)&(17)	12-35-550(17)	Machine exemptions for farmers, manufacturers, processors, etc.

<u>Recodified Section #</u>	<u>Previous Section #</u>	<u>Section's Content</u>
12-36-2120(18)	12-35-550(18)	Fuel used to cure agricultural products.
<u>Recodified Section #</u>	<u>Previous Section #</u>	<u>Section's Content</u>
12-36-2120(19)	12-35-550(19)	Electricity used in manufacturing.
12-36-2120(20), (21) & (22)	12-35-550(20)	Railcars, locomotives, vessels, barges and materials necessary to assemble missiles, etc.
12-36-2120(23)	12-35-550(21)	Products of the farm sold by the producer thereof in the original state of production.
12-36-2120(24)	12-35-550(23)	Machinery and supplies sold to laundries and dry cleaners.
12-36-2120(25)	12-35-550(25)	Sales of motor vehicles and motorcycles to military personnel.
12-36-2120(26)	12-35-550(26)& (27)	Supplies, equipment and electricity sold to radio and tv stations.
12-36-2120(27)	12-35-550(30)	Plants and animals sold to zoos, etc.
12-36-2120(28)	12-35-550(31)	Medicines and prosthetic devices sold by prescription and dental prosthetic devices.
12-36-2120(29)	N.A.	Reserved.
12-36-2120(30)	12-35-550(33)	Sales by General Services Division.
12-36-2120(31)	12-35-550(34)	Vacation time shares.
12-36-2120(32)	12-35-550(36)	Natural and LP gas used in poultry production.
12-36-2120(33)	12-35-550(37)	Electricity, natural gas, etc. used for residential purposes.
12-36-2120(34)	12-35-550(38)	35% of gross proceeds of modular homes.
12-36-2120(35)	12-35-550(39)	Film sold or rented to theatres.

<u>Recodified Section #</u>	<u>Previous Section #</u>	<u>Section's Content</u>
12-36-2120(36)	12-35-550(40)	Sales of property delivered out of state.
12-36-2120(37)	12-35-550(41)	Paving asphalt used out-of-state.
<u>Recodified Section #</u>	<u>Previous Section #</u>	<u>Section's Content</u>
12-36-2120(38)	12-35-550(43)	Hearing aids.
12-36-2120(39)	12-35-550(44)	Festival concession sales.
12-36-2120(40)	12-35-550(46)	Containers and chassis sold to shipping companies.
12-36-2120(41)	12-35-550(48)	Sales by nonprofit organizations.
12-36-2120(42)	12-35-550(47)	Sale of an entire business.
12-36-2130	12-35-820	Exemptions from the use (Exemptions) tax.
12-36-2130(1)	12-35-820(1)	Property subject to the sales tax and on which the sales tax has been paid.
12-35-2130(2)	12-35-820(3)	Tangible personal property or exhibition rentals purchased or leased by museums.
Article 25 - General Provisions		
12-36-2510	12-35-1240	Provision for "direct pay" certificate.
12-36-2520	12-35-1160	Shifting of tax liability to purchaser for property delivered out-of-state.
12-36-2530	12-35-1545	Authority for Commission to require retailers to provide copies of invoices for sales of \$500 or more where delivery is made outside the State.
12-36-2540	12-35-1250	Recordkeeping requirements.
12-36-2550	12-35-1360	Offsetting of overpayments and underpayments.
12-36-2560	12-35-540	Installment sales.

<u>Recodified Section #</u>	<u>Previous Section #</u>	<u>Section's Content</u>
12-36-2570	12-35-570 12-35-890 12-35-900	Filing of returns and 12-35-880 payment of taxes.

<u>Recodified Section #</u>	<u>Previous Section #</u>	<u>Section's Content</u>
12-36-2580	12-35-600	Filing of quarterly 12-35-519 returns when tax liability does not exceed \$100.
12-36-2590	12-35-910	Authority for Commission to require filing of returns and payment of taxes other than monthly periods.
12-36-2600	12-35-580	Estimated monthly taxes.
12-36-2610	12-35-1230	Discount for timely filing and payment of the tax.
12-36-2620	_____	Explains makeup and uses of the sales tax; use tax; and sales tax on "additional guest charges" (2% accommodations tax).
12-36-2630	_____	Explains makeup and uses of the seven percent sales tax on accommodations.
12-36-2640	_____	Explains makeup and uses of the casual excise tax.
12-36-2650	12-35-510	Taxes imposed by Chapter 36 are in addition to all other taxes, licenses, and charges.