



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

SC INFORMATION LETTER #90-7

TO: Vicki Jinnette
Public Information Director

FROM: John P. McCormack, Manager
Tax Policy and Appeals Department

DATE: March 7, 1990

SUBJECT: Sales of Trailers, Semitrailers and Pole Trailers to Nonresidents
(This document rescinds SC Information Letter #88-21, as amended.)
(Sales Tax)

REFERENCE: S.C. Code Ann. Section 12-35-555 (As Amended June 8, 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 12-35-555 (effective for sales after December 31, 1987) reads:

The sale in this State of new or used motor vehicles as defined in Section 56-1-10, or new or used trailers, semi-trailers or pole trailers of a type to be registered and licensed, to a resident of another state is taxable for purposes of this article in an amount equal to the sales tax which would be imposed on the sale in the purchaser's state of residence. The tax on the sale may not exceed the tax that would otherwise be imposed under this article. At the time of the sale the purchaser shall execute a notarized statement of his intent to license the vehicle or trailer in his state of residence within ten days from the date of purchase, and:

- (a) pay the sales tax due as modified by this section to the dealer making the sale;
- (b) furnish the seller with a signed copy of the notarized statement which the seller retains in his records;

- (c) submit the notarized statement to the appropriate sales tax collection agency in his state of residence. Where a nonresident will not receive credit in his state of residence for any sales taxes paid to the State of South Carolina under this section and where his state of residence does not grant reciprocity to South Carolina residents pursuant to Section 12-35-815, no sales tax on the sale may be charged. The Commission by regulation shall establish what documentation of the above is necessary in order to receive the exemption granted by this paragraph.

Attached are a chart and a worksheet designed to assist dealers of trailers, semitrailers and pole trailers in calculating the tax due on sales to nonresidents.

It is important to remember the following points when making sales of trailers, semitrailers or pole trailers to nonresidents:

1. Trailers and Semitrailers Pulled By a Truck Tractor: The maximum tax is the lesser of 5% x (Sales Price minus Trade-in) or \$300.00.
2. Trailers and Semitrailers Pulled By a Vehicle Other Than a Truck Tractor: The maximum tax is 5% x (Sales Price minus Trade-in).
3. Pole Trailers: The maximum tax is 5% x (Sales Price minus Trade-in).
4. For purposes of this Information Letter, Code Section 56-3-20 provides definitions of trailer, semitrailer, pole trailer and truck tractor (See Exhibit "A").
5. When the nonresident's state sales tax rate results in a sales tax amount less than the maximum (See items 1, 2 and 3 above), collect the lesser amount.
6. Enter the allowable deductions on the reverse side of the sales tax return.
7. Form ST-385 must be completed in its entirety and distributed as required by Code Section 12-35-555.
8. Certain states exempt sales of trailers for use in interstate or foreign commerce. With respect to interstate commerce, the purchaser's Interstate Commerce Commission carrier permit number should be shown on Form ST-385 next to the purchaser's name. With respect to foreign commerce, the seller must document that the trailer will be used in foreign commerce.

NOTE: SEE INFORMATION LETTER #90-8 WITH RESPECT TO SALES OF MOTOR VEHICLES TO NONRESIDENTS.

EXHIBIT A

DEFINITIONS:

- "Trailer" - Every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.
- "Semitrailer" - Every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.
- "Pole Trailer" - Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes or structural members capable, generally, of sustaining themselves as beams between the supporting connections.
- "Truck Tractor" - Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

SALES OF TRAILERS, SEMITRAILERS AND POLE TRAILERS TO NONRESIDENTS
(Code Section 12-35-555)

Sales of trailers, semitrailers and pole trailers, of a type to be registered and licensed, to residents of the following states are not subject to the South Carolina sales tax.

Alaska	Iowa	Nevada	Oregon
(1) Arkansas	Kentucky	New Hampshire	South Dakota
Delaware	Maryland	New Mexico	Vermont
District of Columbia	Minnesota	(1) North Carolina	West Virginia
Indiana	Montana	Oklahoma	

Sales of trailers, semitrailers and pole trailers, of a type to be registered and licensed, to residents of the following states are subject to the South Carolina Sales Tax. The maximum tax on the sale of trailers or semitrailers pulled by a truck tractor is the lesser of 5% x (S-T) or \$300.00. The maximum tax on the sale of pole trailers, and trailers or semitrailers pulled by a vehicle other than a truck tractor, is 5% x (S-T).

<u>State</u>	<u>Rate(%)</u>	<u>Measure of Tax *</u>	<u>State</u>	<u>Rate(%)</u>	<u>Measure of Tax *</u>
Alabama	2.0	S-T	(1) Missouri	4.425	S-T
Arizona	5.0	S-T	(2) Nebraska	4.0	S-T
(5) California	5.0	S	New Jersey	6.0	S-T
Colorado	3.0	S-T	(4) New York	4.0	S-T
Connecticut	8.0	S-T	North Dakota	6.0	S-T
Florida	6.0	S-T	Ohio	5.0	S-T
(1) Georgia	4.0	S-T	Pennsylvania	6.0	S-T
Hawaii	4.0	S-T	Rhode Island	6.0	S-T
(4) Idaho	5.0	S-T	(2) Tennessee	5.5	S-T
(1) Illinois	6.25	S-T	(1) Texas	6.0	S-T
Kansas	4.25	S-T	Utah	5.09	S-T
Louisiana	4.0	S-T	Virginia	3.0	S
(2) Maine	5.0	S	(2) Washington	6.5	S-T
Massachusetts	5.0	S-T	(1) Wisconsin	5.0	S-T
Michigan	4.0	S	(1) Wyoming	3.0	S-T
(3) Mississippi	6.0/3.0	S-T			

* S = Sales Price T = Trade-in Allowance

(1) Sales of trailers, semitrailers and pole trailers to residents of these states are not subject to the South Carolina Sales Tax when the purchaser is a holder of a carrier permit issued by the Interstate Commerce Commission.

(2) Sales of trailers, semitrailers and pole trailers to residents of these states are not subject to the South Carolina Sales Tax when the purchaser is a holder of a carrier permit issued by the Interstate Commerce Commission or will use such trailers in foreign commerce.

(3) After July 1, 1988, sales of semitrailers are taxed at the rate of 3%. All other trailers are taxed at 6%.

(4) Sales of trailers and semitrailers, are not subject to the South Carolina Sales Tax, to residents of New York if weight exceeds 26,000 lbs. and is used in combination with a truck tractor or to residents of Idaho if weight does not exceed 26,000 lbs. and is used in interstate commerce.

(5) California sales tax will temporarily increase from 4.75% to 5% from December 1, 1989 to December 31, 1990, due to the earthquake.

WORKSHEET: SALES OF TRAILERS AND SEMITRAILERS PULLED BY A TRUCK
TRACTOR TO NONRESIDENTS (Code Section 12-35-555)

Purchaser's Name

Purchaser's State of Residence

Purchaser's State Sales Tax Rate (Per Chart) _____ %

Trade-in Allowed (Per Chart) ____ Yes ____ No

Computation of Tax Based on Purchaser's State Sales Tax Rate

1. Sales Price (Enter amount on Form ST-3, Line 1)
2. Less: Trade-in (if allowed in purchaser's state, per chart)
3. Measure of Tax (Line 1 less Line 2)
4. Multiply by Purchaser's State Sales Tax Rate
5. Tax Due Based on Purchaser's State Sales Tax Rate

Computation of Maximum Tax

6. Sales Price (Line 1)
7. Less: Trade-in (if seller accepts trade-in, whether or not allowed per chart)
8. Measure of Tax
9. Multiply by SC Sales Tax Rate .05
10. Maximum Tax (This amount may not exceed \$300.00)

Computation of Allowable Deductions

11. SC Sales Tax Due (Lesser of Line 5 or Line 10)
(Enter on Form ST-3, Line 7)
12. SC Sales Tax Rate .05
13. Basis for Tax at SC Rate (Line 11 divided by Line 12)
14. Measure of Tax (Line 3)
15. Less: Basis for Tax at SC Rate (Line 13)
16. Deduction for Excess Sales Price (Line 14 less Line 15)
17. Trade-in Allowed (Line 2)
18. Total Deductions (Line 16 plus Line 17) (Enter amount on Form ST-3, Line 5; and on the reverse side of Form ST-3)

WORKSHEET: SALES OF POLE TRAILERS, AND TRAILERS OR SEMITRAILERS
PULLED BY A VEHICLE OTHER THAN A TRUCK TRACTOR, TO NONRESIDENTS
(Code Section 12-35-555)

Purchaser's Name

Purchaser's State of Residence

Purchaser's State Sales Tax Rate (Per Chart) _____ %

Trade-in Allowed (Per Chart) ____ Yes ____ No

Computation of Tax Based on Purchaser's State Sales Tax Rate

1. Sales Price (Enter amount on Form ST-3, Line 1)
2. Less: Trade-in (if allowed in purchaser's state, per chart)
3. Measure of Tax (Line 1 less Line 2)
4. Multiply by Purchaser's State Sales Tax Rate
5. Tax Due Based on Purchaser's State Sales Tax Rate

Computation of Maximum Tax

6. Sales Price (Line 1)
7. Less: Trade-in (if seller accepts trade-in, whether or not allowed per chart)
8. Measure of Tax
9. Multiply by SC Sales Tax Rate .05
10. Maximum Tax (This amount may exceed \$300.00)

Computation of Allowable Deductions

11. SC Sales Tax Due (Lesser of Line 5 or Line 10)
(Enter amount on Form ST-3, Line 7)
12. SC Sales Tax Rate .05
13. Basis for Tax at SC Rate (Line 11 divided by Line 12)
14. Measure of Tax (Line 3)
15. Less: Basis for Tax at SC Rate (Line 13)
16. Deduction for Excess Sales Price (Line 14 less Line 15)
17. Trade-in Allowed (Line 2)
18. Total Deductions (Line 16 plus Line 17)
(Enter amount on Form ST-3, Line 5; and on the reverse side of Form ST-3)