



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

SC INFORMATION LETTER #91-13

TO: Vickie Ringer
Public Information Director

FROM: Jerry Knight, Manager
Tax Policy and Appeals Department

DATE: June 10, 1991

SUBJECT: Local Option Tax - Contractors
(Purchases of Building Materials)

REFERENCE: S.C. Code Ann. Section 4-10-20 (Supp. 1990)
S.C. Code Ann. Section 4-10-25 (Supp. 1990)
SC Revenue Ruling #90-11

AUTHORITY: S.C. Code Section 12-3-140
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.

SIX COUNTIES IMPOSE THE ONE PERCENT (1%) LOCAL SALES AND USE TAX:

Effective July 1, 1991, an additional one percent (1%) local sales and use tax will go into effect in six counties - Charleston, Colleton, Hampton, Jasper, Marion and McCormick. The tax may be imposed in other counties in the future.

PURCHASES BY CONSTRUCTION CONTRACTORS WHICH ARE EXEMPT FROM THE LOCAL SALES AND USE TAX:

A. Exemption. Purchases of building materials for use under a construction contract are exempt from the one percent (1%) tax, if both of the following conditions are met:

1. (a) the construction contract is executed before the imposition date or

(b) a written bid is submitted before the imposition date, culminating in a construction contract entered into before or after the imposition date, and

2. a verified copy of the contract is mailed, within six (6) months of the imposition date, to:

South Carolina Tax Commission
Office Services Division
License and Registration Section
P.O. Box 125
Columbia, S.C. 29214-0109

A "verified copy" is a copy accompanied by a statement, signed under penalties of perjury, that it is true and correct. If the contractor is a corporation, the statement is to be signed by an officer of the corporation or an employee authorized to sign. If the contractor is a partnership, the statement is to be signed by a general partner. If the contractor is a sole proprietorship, the owner is to sign.

B. Special Exemption Certificate. In order for a contractor to purchase building materials for a particular contract free of the one percent (1%) tax, the contractor must complete Form ST-10C ("Application for Exemption from Local Option Tax") and submit it to the Tax Commission. If the Commission determines the contract in question meets the requirements contained in Section A of this document, the contractor will be issued a special exemption certificate (Form ST-35). The certificate may only be used to purchase building materials for the contract for which it is issued and may not be used to purchase anything other than building materials. Also, the certificate does not allow the contractor to make purchases of building materials free of the five percent (5%) state tax.

An exemption certificate issued by the Tax Commission to a prime contractor may not be used by a subcontractor nor may a prime contractor use a subcontractor's exemption certificate. Each contractor must obtain his or her own certificate for each construction contract.

PURCHASES OF BUILDING MATERIALS FOR CONSTRUCTION CONTRACTS NOT MEETING THE REQUIREMENTS UNDER SECTION A:

Purchases of building materials for construction contracts not meeting the requirements under Section A of this document are subject to the one percent (1%) tax as follows:

A. Purchases from an in-state supplier are reportable by the in-state supplier in the county and municipality where the supplier has his business location. If the supplier is located in a county which has imposed the one percent (1%) tax, then the tax is due. If the supplier is located in a county which has not imposed the tax, then the tax is not due. It does not matter if the county of delivery or the county in which the job site is situated has imposed the 1% tax.

B. Purchases from an out-of-state supplier are reportable by the contractor in the county and municipality where the property is first stored, used or consumed by the contractor. If the county in which the property is first stored, used or consumed has imposed the tax, then the 1% tax is due. If the county in which the property is first stored, used or consumed has not imposed the 1% tax, then the tax is not due.

"MANUFACTURER/CONTRACTORS":

A so-called "manufacturer/contractor" is a construction contractor who produces his own building materials.

Pursuant to Code Section 12-36-110(1)(d), "manufacturer/contractors" are to report the 1% tax by county and municipality where they use or consume the building materials which they have produced - in other words, the location of the construction site. Therefore, if the property is used or consumed in a county which has imposed the 1% local tax, then the tax is due. If the property is used or consumed in a county which has not imposed the 1% local tax, then the tax is not due. It does not matter where the "manufacturer/contractor's" business location is situated.

"Manufacturer/contractors" may also apply for the special exemption certificate provided for in this document.

DEFINITION OF THE TERM "BUILDING MATERIALS":

Pursuant to S.C. Regulation #117-174.45, the term "building materials" refers to tangible personal property which becomes a part of real property (e.g. lumber, bricks, nails, steel, wiring, etc.). Therefore, the term does not refer to such items as machinery, tools, fuel, supplies, etc. which do not become a part of real property.

ADDITIONAL INFORMATION:

For additional information concerning the local option sales and use taxes, refer to Revenue Ruling #90-11. A copy of the ruling may be obtained by calling (803) 737-4405. If you have other questions concerning the local option tax and how it pertains to construction contractors, you may call Jerry Knight at (803) 737-4437 or Gary Heuer at (803) 737-4744.