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SC INFORMATION LETTER #91-7

TO: Vickie Ringer
Public Information Director

FROM: Steve C. Hallman

DATE: January 29, 1991

SUBJECT: Exclusion of Federal Excise Tax on Luxury Items From Sales and Use Taxes

REFERENCE: S.C. Code Ann. Section 12-36-90 (Supp. 1990)
S.C. Code Ann. Section 12-36-130 (Supp. 1990)

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.

The Revenue Reconciliation Act of 1990 (the Act) imposes federal excise taxes on the first retail sale of passenger vehicles, boats, aircraft, furs and jewelry exceeding certain sales prices. The provisions of the Act became effective January 1, 1991.

The terms "gross proceeds of sales" and "sales price", as defined in S.C. Code Sections 12-36-90 and 12-36-130, exclude from this State's sales and use tax "the amount of any tax imposed by the United States with respect to retail sales, whether imposed upon the retailer or the consumer." In that the federal excise taxes imposed by the Act are on retail sales and the liability of the retailer, such taxes are not to be included in the base or amount subject to this State's sales or use tax.