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SC INFORMATION LETTER #92-22

TO: Vicki Jinnette Ringer

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

DATE: June 25, 1992

SUBJECT: Changes in Property Tax Laws
(Property Tax)

REFERENCE: See Discussions Below

AUTHORITY: S.C. Code Ann. Section 12-4-320 (Supp. 1991)
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 following is a brief summary of the significant property tax and fee-in-lieu of property tax laws enacted by the General Assembly during this past legislative session:

Act 361, Section 21.

Subject: Appeal Rights - County Personal Property Tax Bills

Amendment: Code Section 12-37-2650 has been amended to require that "[t]ax bills (notices) for county assessed personal property valued in accordance with applicable Tax Commission Regulations include notification of the taxpayer's appeal rights ..." The tax bill must "include a minimum amount of information of how the taxpayer should file his appeal, to whom, and within what time period."

Effective Date: May 4, 1992

Act 361, Section 22.

Subject: **Minimum Assessment**

Amendment: Code Section 12-39-180 has been amended to provide that a minimum assessment of twenty dollars be placed on all property that generates a tax bill.

Effective Date: May 4, 1992

Act 361, Section 23.

Subject: **Assessment Ratio For Legal Residence**

Amendment: Code Section 12-43-220(c) has been amended to extend the time for filing for the four percent assessment ratio applicable to an owner-occupied legal residence. The time for filing has been extended to the day before the first penalty date for taxes due for the first tax year for which the 4% assessment ratio is claimed.

Effective Date: For property tax years beginning after 1990

Act 361, Section 25.

Subject: **Refund of Incorrect Property Taxes**

Amendment: Code Section 12-47-70 has been amended to provide a refund period of three years from the date the taxes could have been paid without a late payment penalty. Prior to this amendment the law required the claim for abatement or refund be made within five years from the date of the assessment or collection.

Effective Date: Tax years beginning after December 31, 1992

Act 361, Section 29.

Subject: **Setoff Debt Collection**

Amendment: Political subdivisions of the State are now eligible to participate in the setoff debt collection program. Under this program, a political subdivision of the State may, upon application and submission of the necessary information, have the Commission apply a taxpayer's income tax refund to that taxpayer's debt owed to the political subdivision. See SC Revenue Procedure #91-6 for details as to how this program works. (This procedure is presently being revised to reflect the law change that allows political subdivisions to participate in this program.)

Effective Date: May 4, 1992

Act 361, Sections 35, 36, and 37.

Subject: **Fee-in-lieu**

Amendment: Code Sections 4-29-68 and 4-1-170 were amended to allow counties or municipalities that receive fee-in-lieu of property tax payments to issue special source revenue bonds secured by and payable from a portion or all of the fee. The money raised from the sale of the bonds can be used to make infrastructure improvements for the business paying the fee or for an industrial park in which the business is located.

Amendment: Code Section 4-29-67 was amended to clarify a number of issues concerning the fee-in-lieu of property taxes for investments in excess of 85 million dollars. The changes include the following:

1. Requiring that an investment be in a single county or an industrial development park;
2. Allowing subsidiaries of corporations to combine investments to meet the minimum 85 million dollar level;
3. Clarifying the time period in which an investor must complete a project;
4. Providing when and how the millage rate and discount rate for calculating the fee is established;
5. Allowing for a recalculation of the fee when property is replaced or disposed of;
6. Providing that all agreements between counties and investors executed before March 15, 1992 will be binding on the parties with regard to how the fee is calculated and allows parties to renegotiate replacement provisions and the provisions for the disposal of property which are consistent with the new law.

Effective Date: May 4, 1992

Act 338.

Subject: **Taxpayers' Representatives**

Amendment: Generally, as of May 4, 1992, only attorneys, certified public accountants and enrolled agents may represent clients before the Commission and local taxing authorities. However, there are certain exceptions - for example, an individual may represent himself; corporations and unincorporated associations and employers may be represented by an officer or full time employee; partnerships may be represented by a partner or full time employee; and trusts, receiverships, guardianships, and estates may be represented by their trustees, receivers, guardians, administrators or executors or their regular full time employees. In addition, the Commission, when it deems it

appropriate, may allow others to represent taxpayers. The above provisions have been codified in Code Section 12-4-335.

Effective Date: May 4, 1992

Act 432.

Subject: **Renovation of Residential Property for Sale to Economically Disadvantaged Persons**

Amendment: Code Section 12-37-220B.(16)(b) has been amended to provide that the exemption from property taxes for property of any religious, charitable or eleemosynary organization, used to build or renovate residential structures for sale to economically disadvantaged persons, may be claimed for up to five tax years, rather than two years. The amendment also provides that the sale must be a "not-for-profit" sale and that the total properties for which the organization is claiming this exemption may not exceed fifteen acres per county.

Effective Date: June 1, 1992

Act 375.

Subject: **Rehabilitated Historic Properties**

Amendment: Code Section 4-9-195 has been amended as follows:

- (1) (a) Provides for owner-occupied rehabilitated historic property to be assessed for two years at 4% of the appraised value at the time certification was made; and,
 - (b) an assessment of the greater of 40% of 4% of the appraised value after rehabilitation or 4% of the appraised value prior to certification for eight years.

- (2) (a) Provides for income producing rehabilitated historical property and low and moderate income rental property to be assessed for two years at 6% of the appraised value at the time certification was made; and,
 - (b) an assessment the greater of 40% of 6% of the appraised value after rehabilitation or 6% of the appraised value prior to certification for eight years.

- (3) Denies certification for rehabilitated historic property if the rehabilitation was undertaken as a result of a natural disaster, catastrophic accident, or force majeure;
- (4) Establishes criteria for certification of property as low and moderate income rental property;
- (5) Clarifies criteria for certification of property as rehabilitated historic property; and,
- (6) Adds definitions for the phrases "appraised value of the property at the time of certification was made" and "appraised value of the property after rehabilitation".

Effective Date: May 19, 1992

Act 426.

Subject: **Suspension of Driver's License and Motor Vehicle Registration for Failure to Pay Property Taxes**

Amendment: Code Section 12-37-2740 requires the highway department to suspend, upon notification from the county treasurer or municipal clerk treasurer, the driver's license and motor vehicle registration of a person who has not paid property taxes within the time prescribed by Chapter 37 of Title 12. The amendment no longer requires that the county or municipal clerk treasurer notify the highway department in writing. The notification must be in a manner determined by the highway department.

Effective Date: June 1, 1992

Note: Several of the Acts discussed in this Information Letter are also discussed in other Information Letters (See SC Information Letters #92-17 and #92-20.) The information is merely repeated here in order that important developments in the area of property taxes may be directed to local taxing authorities and others interested in property taxation.