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SC INFORMATION LETTER #92-25

TO: Vicki Jinnette Ringer

FROM: Deana West, Tax Analyst
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DATE: July 13, 1992

SUBJECT: Changes in Tax Laws

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 tax law changes enacted by the General Assembly during this past legislative session.

MISCELLANEOUS TAXES

House Bill #3044 (Appropriations Bill, Part II) - Section #8

Subject: **Alcoholic Liquor Licenses**

Amendment: Code Section 12-33-210 has been amended to provide for biennial licenses and to revise the taxes on licenses granted under the Alcoholic Beverage Control Act. These license taxes are remitted to the ABC Commission.

Code Section 12-33-220 has also been amended to provide for the payment of seven-eighths of the license fee amount for a person granted a license between January 1 and June 30.

Effective Date: July 1, 1992.

House Bill #3044 (Appropriations Bill, Part II) - Section #10

Subject: Coin-Operated Devices

Amendment: Code Section 12-21-2719 has been added to require the Tax Commission to convert coin-operated device licenses to a biennial licensing period.

Effective Date: For licenses which expire May 31, 1993.

Amendment: Code Section 12-21-2720(2) has been amended to exempt certain machines from the coin-operated license fee if an admissions tax is imposed.

Effective Date: July 1, 1992.

Subject: Licensing of Motor Carriers

Amendment: Various provisions relating to the road tax on motor carriers in Code Section 12-31-220, et. seq., have been amended to revise the fees and change to a biennial licensing and registration period.

Effective Date: July 1, 1992.

House Bill #3044 (Appropriations Bill, Part II) - Section #19

Subject: Tax on Licensed Hospitals

Amendment: Code Section 12-23-810, relating to the tax on licensed hospitals, has been amended to revise the imposition formula of the tax to be based on the total expenditures of each hospital as a percentage of total hospital expenditures statewide.

Effective Date: July 1, 1992.

House Bill #3044 (Appropriations Bill, Part II) - Section #34

Subject: Beer, Wine and Alcoholic Liquors Taxes - Estimated Payments

Amendment: Code Section 12-21-1050, relating to the payment of beer and wine taxes, and Code Section 12-33-450, relating to the payment of alcoholic liquors taxes, have been amended to delete the requirement for paying estimated taxes each June.

Effective Date: July 1, 1992.

House Bill #3044 (Appropriations Bill, Part II) - Section #69

Subject: Car Rental Surcharge

Amendment: Code Section 56-31-50 is added to provide that rental companies engaged in the business of renting private passenger motor vehicles for periods of thirty-one days or less shall collect a five percent surcharge on each rental contract at the time the vehicle is rented in South Carolina. The surcharge must be noted in the rental contract and is computed on the total amount stated in the contract, except that sales and use taxes are not included in this computation. Further, the surcharge is not subject to sales or use taxes.

In general, the surcharges collected must be retained by the vehicle owner or rental company and used for reimbursement of the amount of personal property taxes imposed and paid upon the rental vehicles by the owner or rental company, with any excess remitted to the Tax Commission.

On February fifteenth of each year, all rental companies required to collect these surcharges shall file a report with the Tax Commission stating: (1) the total amount of South Carolina personal property taxes on private passenger motor vehicles paid in the previous calendar year, (2) the total amount of private passenger motor vehicle rentals earned on rentals in South Carolina during the previous calendar year, (3) and the amount by which the total amount of the surcharges for the previous year exceeds the total amount of personal property taxes on private passenger motor vehicles paid for the previous calendar year. All surcharge revenues collected in excess of the total amount of personal property taxes on private passenger motor vehicles must be remitted to the Tax Commission.

The surcharges collected from July 1, 1992 to December 31, 1992 shall be credited to the State's general fund. Thereafter, the surcharges collected in a calendar year shall be used on February 15th of the following year to reimburse those property taxes paid during the year in which the surcharges were collected.

Effective Date: July 1, 1992

Senate Bill 1446 - Section #3

Subject: Documentary Tax

Amendment: Code Section 12-21-380 has been amended to increase the documentary stamp tax on deeds and other conveyances. All deeds and conveyances executed on or after June 3, 1992 are taxed at the rate of \$1.30 for each \$500.00 in consideration, exclusive of any liens or encumbrance remaining on the property at the time of sale.

Effective Date: Deeds and conveyances executed on or after June 3, 1992.

House Bill #3603

Subject: Abandoned Property

Amendment: Code Section 27-18-140 has been amended to increase the holding time for intangible property from one year to five years before it is declared abandoned.

Effective Date: February 19, 1992.

Senate Bill #1141

Subject: Solid Waste Excise Tax

Amendment: The Act was amended to allow refunds of, or credits for, the tax to persons who paid the tax on deliveries of tires, motor oil, lead-acid batteries and white goods pursuant to a written contract executed before November 1, 1991, or a written bid submitted before November 1, 1991 that culminated in a contract before February 1, 1992. In order to receive the refund or credit the taxpayer must file a verified copy of the contract with the Commission when requesting the refund or credit.

Code Section 44-96-40(23) was amended to revise the definition of the term "lead-acid battery" to exclude small sealed lead-acid batteries which weigh 25 pounds or less and are used in "non-vehicular, non start lighting ignitions applications".

Effective Date: July 1, 1992.

Code Section 44-96-180(F) was amended to change the imposition of the fee on sales of lead-acid batteries. Effective September 29, 1992, retailers are responsible for collecting and remitting the solid waste excise tax on sales of lead-acid batteries, whether or not the retailer installs the battery.

Effective Date: September 29, 1992

Senate Bill # 1273

Subject: Solid Waste Excise Tax

Amendment: Code Section 44-96-40(27) has been amended to revise the definition of "motor oil and similar lubricants". The term is now defined as "the fraction of crude oil or synthetic oil that is classified for use in the crankcase, transmission, gearbox, or differential of an internal combustion engine, including automobiles, buses, trucks, lawn mowers and other household power equipment, industrial machinery, and other mechanical devices that derive their power from internal combustion engines. The terms include re-refined oil but do not include heavy greases and speciality industrial or machine oils, such as spindle oils, cutting oils, steam cylinder oils, industrial oils, electrical insulating oils, or solvents which are not sold at retail in this State."

Code Section 44-96-160(D) was amended to provide for a five cent payment to qualified retailers for every gallon of motor oil that is properly returned to a registered used oil transporter or permitted used oil recycling facility upon proper verification. Retailers of motor oil who maintain a separate tank for a voluntary used oil collection center as approved by the South Carolina Department of Health and Environmental Control are eligible for the payment from the Tax Commission.

Code Section 44-96-160(V)(2)(a)(2) has been amended to allow for retailers who maintain an approved used oil collection center to be eligible for a one-time rebate of up to \$500 for each location for equipment used in the used oil collection process. The rebate will be distributed by the Department of Health and Environmental Control upon their approval of the collection center and the retailers submission of proof of purchase of the equipment.

Effective Date: July 1, 1992

INCOME TAXES

House Bill #3044 (Appropriations Bill, Part II) - Section #52

Subject: **In-Home or Community Care Tax Credit**

Amendment: Code Section 12-7-1235 has been amended to provide a credit for expenses paid to an institution providing nursing facility level of care. The credit has also been extended to payments for in-home or community care for persons determined to meet nursing facility level of care criteria as certified by a licensed physician.

Effective Date: Taxable years beginning after 1991.

House Bill #3044 (Appropriations Bill, Part II) - Section #62

Subject: **Contributions to Eldercare Trust Fund**

Amendment: Code Section 12-7-2419 has been added to provide a designation on income tax returns for taxpayers to make contributions to an Eldercare Trust Fund.

Effective Date: July 1, 1992.

House Bill #3044 (Appropriations Bill, Part II) - Section #64

Subject: **Withholding - S Corporation and Partnerships**

Amendment: Code Section 12-9-40 has been added to require S-Corporations and partnerships to withhold income tax at the rate of 5% on their nonresident S-Corporation shareholders and nonresident partners share of South Carolina taxable income. Effective for taxable years beginning

after 1991, the withheld funds must be remitted on or before the fifteenth day of the third month following the close of a S-Corporation's tax year and on or before the fifteenth day of the fourth month following the close of a partnerships tax year.

There are two exceptions to the above withholding requirements: (1) a S-Corporation or partnership is not required to withhold with respect to a shareholder or partner who files an affidavit with the Tax Commission agreeing that he is personally subject to the taxing jurisdiction of South Carolina, and (2) a S-Corporation or partnership is exempt from withholding on income attributable to the sale of real property which is subject to withholding pursuant to Article 6.

Effective Date: For tax years beginning after 1991.

Senate Bill #1291

Subject: **New Jobs Tax Credit**

Amendment: Code Section 12-7-1220 has been amended to revise the definition of the term "new job" to include existing jobs at a facility of an employer which are reinstated after the employer has rebuilt the facility due to its destruction (greater than 50%) by accidental fire, natural disaster, or act of God.

Effective Date: May 4, 1992.

House Bill #3044 (Appropriations Bill) - Budget and Control Board Proviso #14K.13

Subject: Net Long Term Capital Gains Deduction

Amendment: This amendment delays the increase in the net long term capital gains deduction. The deductions from South Carolina taxable income of individual, partnerships (including S corporations, estates, and trusts) now equals the following amounts of net long term capital gains:

- (1) fourteen percent for taxable years beginning in 1990.
- (2) twenty-nine percent for taxable years beginning in 1991 and 1992.
- (3) forty-four percent for taxable years beginning after 1992.

Effective: January 1, 1992

SALES AND USE TAXES

House Bill #4463 and Senate Bill #1345

Subject: **Religious Publications and Motor Vehicle Warranties**

Amendment: Both resolutions forgive the sales and use tax indebtedness on sales and purchases of religious publications made through January 13, 1992, the date that the South Carolina Supreme Court declared the related exemption unconstitutional. The latter resolution exempts from sales and use taxes the value of parts used to perform written motor vehicle warranty work before October 1, 1991, which required co-payments.

Effective Dates: House Bill #4463 - March 26, 1992,
 Senate Bill #1345 - April 8, 1992

House Bill #3044 (Appropriations Bill, Part II) - Section #33

Subject: **900 and 976 Numbers**

Amendment: Code Section 12-36-2645 has been added to impose the sales and use taxes on the gross proceeds accruing or proceeding from the business of providing 900 or 976 telephone service. However, the rate of tax is ten percent and all such revenues derived from this Section must be credited to the general fund of the State.

Effective Date: July 1, 1992

House Bill #3044 (Appropriations Bill, Part II) - Section #36

Subject: **Discount for Timely Filed Returns**

Amendment: Code Section 12-36-2610 is amended to reduce from \$10,000 to \$3,000 the maximum discount allowed a taxpayer for timely filing and paying in full their sales and use tax liability.

Effective Date: July 1, 1992

House Bill #3044 (Appropriations Bill, Part II) - Section #59

Subject: **Bingo Proceeds**

Amendment: Code Section 12-21-3610 is added to impose the sales and use tax on the gross proceeds from the game of bingo, except for bingo games held under a Class E license.

Effective Date: July 1, 1992

House Bill #4569

Subject: Electricity and Fuel - Processors

Amendment: Code Sections 12-36-2120(9)(b) has been amended to exempt from the sales and use tax fuel used in the generation of heat or power used in processing tangible personal property for sale. Code Section 12-36-2120(19) has been amended to exempt from the sales and use tax electricity used by processors in processing tangible personal property for sale.

Effective Date: July 1, 1992

Senate Bill #1273

Subject: Manufactured Homes - Maximum Tax

Amendment: Code Section 12-36-2110(B) has been amended to increase the maximum sales and use tax imposed on the sale of a manufactured home, as defined in Code Section 40-29-20. After determining the basis for the tax, the maximum tax imposed will be \$300 plus two percent of the amount greater than \$6,000. However, if a manufactured home, that has not been previously occupied as a dwelling, meets certain efficiency standards, then the maximum tax is \$300. The statute requires that the manufactured home dealer keep records verifying whether or not the home meets the required efficiency standards.

Effective Date: January 1, 1993

Subject: Clean Alternative Transportation Fuels

Amendment: Code Section 12-36-2120(15) has been amended to exempt from the sales and use tax "clean alternative transportation fuels as defined in regulation by the South Carolina Tax Commission as defined by the State Energy Office".

Effective Date: July 1, 1992

Senate Bill #1141

Subject: Accommodations - Additional Guest Charges

Amendment: The effective date of Code Section 12-36-920(B) has been changed from July 1, 1990 to October 1, 1989. The practical result of this amendment is to exclude from the 2% accommodations tax imposed under Code Section 12-35-710(1) certain additional guest charges that were due for the period of October 1, 1989 through the date the sales and use tax was recodified, July 1, 1990.

Effective Date: October 1, 1989

Note: This Information Letter concerns tax legislation enacted as part of the State Appropriation Bill for 1992-93 and several other bills. See SC Information Letters #92-14, #92-15, #92-16, #92-17, #92-18, and #92-20 concerning tax legislation enacted earlier this year and SC Information Letter #92-22 concerning legislation with regards to property taxes.