



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

SC INFORMATION LETTER #94-31 (TAX)

**SUBJECT:** ADMINISTRATIVE PRONOUNCEMENT Timber Deeds

**DATE:** December 6, 1994

**SUPERSEDES:** All previous documents and any oral directives in conflict herewith.

**REFERENCE:** S.C. Code Ann. Section 12-21-380 (Supp. 1993)  
S.C. Code Ann. Section 36-2-107 (Supp. 1993)

**AUTHORITY:** S.C. Code Ann. Section 12-4-320 (Supp. 1993)  
S.C. Revenue Procedure #94-1

**SCOPE:** An Information Letter is a document issued for the purpose of disseminating general information or information concerning an administrative pronouncement.

Information Letters issued to disseminate general information have no precedential value and do not represent the official position of the Department. Information Letters designated as administrative pronouncements represent the official advisory opinion of the Department.

On September 13, 1994, the Attorney General's Office issued an opinion concerning documentary stamps on the sale of standing timber. The Opinion held that:

The documentary stamp tax of S.C. Code Ann. Section 12-21-380 is imposed only upon the sale of realty. . . A document which conveys timber to be cut is statutorily classified by the Uniform Commercial Code (S.C. Code Ann. Section 36-2-107(2)) as a contract for the sale of goods and is a document conveying personalty. Such a document is not a document selling realty and, thus, is not subject to the documentary stamp tax of Section 12-21-380.

Pursuant to this opinion, the Department will deem **a contract for the sale of timber to be cut** to be a contract for the sale of personalty.

Any contract for the sale of standing timber other than a contract for timber to be cut (e.g. a contract for the sale of timber and the underlying land) is a contract for the sale of real property, and both the standing timber and the underlying land will be treated as real property for tax purposes.

The phrase "for tax purposes" means for purposes of all taxes administered by the Department under Title 12 of the South Carolina Code of Laws, including:

1. Documentary stamp tax,
2. Property tax, and
3. Income tax, which includes withholding on the sale of real property by nonresidents and qualification of transactions for like-kind exchange treatment under IRC Section 1031.

This Administrative Pronouncement is effective as of September 13, 1994.