



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

S.C. PRIVATE LETTER RULING #87-1

TO: ABC Job Corp Center

SUBJECT: Exemption from Sales and Use Tax

REFERENCE: S.C. Code Sections 12-35-550(1) and 12-35-820(2)
Section 437(c) of the Job Training Partnership Act, as amended

AUTHORITY: S.C. Code Section 12-3-170

SCOPE: A Private Letter Ruling is a temporary document issued to a taxpayer, upon request, and it applies only to the specific facts or circumstances related in the request. Private Letter Rulings have no precedential value and are not intended for distribution.

Question:

Are purchases made by the ABC Job Corp Center exempt from sales and use tax?

Facts:

On October 16, 1986, the President signed into law Bill H.R. 5185 which made technical amendments to the Job Training Partnership Act. Section 437(c) was amended as follows:

Sec. 11. TAXATION OF JOB CORPS OPERATIONS PROHIBITED.

Section 437(c) of the Act is amended to read as follows:

"(c) Transactions conducted by a private for-profit contractor or a nonprofit contractor in connection with the contractor's operation of a Job Corps Center, program, or activity shall not be considered as generating gross receipts. Such contractors shall not be liable, directly or indirectly, to any State or subdivision thereof (nor to any person acting on behalf thereof) for any gross receipts taxes, business privilege posed on, or measured by, gross receipts in connection with any payments made to or by such contractor for operating a Job Corps Center, program, or activity. Such contractors shall not be liable to any State or subdivision thereof to collect or pay any sales, excise, use, or similar tax imposed upon the sale to or use by such contractors of any property, service, or other item in connection with the operation of a Job Corps Center, program, or activity.

S. C. Code Section 12-35-550 (exemptions) reads, in part:

(1) The gross proceeds of the sale of tangible personal property or the gross receipts of any business which the State is prohibited from taxing under the Constitution or laws of the United States of America or under the Constitution of this State.

Code Section 12-35-820(2) extends the exemption to also encompass transactions subject to use tax.

Conclusion:

The above mentioned amendment to the Job Training Partnership Act prohibits the taxing of transactions involving Job Corps Center contractors. (The term "contractor" refers to the person or organization authorized to administer the center's day-to-day operations.) Therefore, pursuant to Code Sections 12-35-550(1) and 12-35-820(2), such transactions are exempt from sales and use tax.

However, prior to the October 1986 amendment, Section 437(c) was worded in such a fashion as to exempt only those transactions subject to sales tax. Therefore, purchases made by Job Corps contractors prior to October 16, 1986, from out-of-state vendors, are subject to the use tax.

SOUTH CAROLINA TAX COMMISSION

s/S. Hunter Howard Jr.

S. Hunter Howard, Jr., Chairman

s/John M. Rucker

John M. Rucker, Commissioner

s/Howard E Duvall Jr.

Howard E. Duvall, Jr., Commissioner

Columbia, South Carolina
March 11, 1987