



SC PRIVATE LETTER RULING #87-5

TO: XYZ Company

SUBJECT: Corporate Income Taxation of XYZ Company and Subsidiary, ABC, Inc.

REFERENCE: S.C. Code Section 12-7-230, 12-7-240, 12-7-250, 12-7-1570, Regulation 117-77, 12-37-220(b)

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.

Questions:

1. Will ABC, Inc. be considered as being an exclusively intrastate business if it does not qualify as doing business in another state? If products are manufactured in South Carolina, but warehoused in another state and subject to taxation in that state does the answer change?
2. Will XYZ Company be considered as doing business in South Carolina because of its 100% ownership of ABC, Inc. several common officers and 100% of ABC's production being sold by XYZ Company's aviation representatives?
3. Will XYZ Company, acting as an invoicing and collection agent for ABC, be considered as doing business within the state for the purpose of financial gain or profit and, therefore, subject XYZ Company to South Carolina's income tax?
4. Will XYZ Company, acting as a purchasing and disbursing agent for ABC during the start-up period, be subject to South Carolina's income tax if appropriate charge is made to ABC for these services?
5. To what extent can inventories be exempt from personal property taxes?
6. Can XYZ Company elect to file consolidated returns at any time after the initial start-up period, if considered necessary by the corporation?

7. Will XYZ's intercompany invoicing for materials or services performed outside of South Carolina, at reasonable intercompany prices, be considered as doing business within the state for the purpose of financial gain or profit and, therefore, subject XYZ to South Carolina's income tax?

Facts:

XYZ Company has requested an answer to the above questions pursuant to Code Section 12-3-170. XYZ has established ABC, Inc., a 100% owned subsidiary to operate a manufacturing plant in South Carolina. The plant will manufacture aviation sparkplugs. The sparkplugs will at all times be the property of ABC. XYZ sales and administrative personnel will handle sales solicitation, billing and collection for a fee, these activities will be conducted outside of South Carolina.

Conclusion:

1. ABC will be considered to be conducting its business entirely within this State if it is not subject to a net income tax or franchise tax measured by net income in another State pursuant to S.C. Code Section 12-7-240. The warehousing of goods in South Carolina would subject a corporation to tax in South Carolina. Therefore, if the income tax laws of South Carolina were applied to another jurisdiction pursuant to Code Section 12-7-240, a corporation that warehouses goods in another jurisdiction would be taxable in that jurisdiction.
2. XYZ Company will not be considered as doing business in South Carolina because of its 100% ownership of ABC, several common officers and 100% of ABC's production being sold by XYZ Company aviation representatives.
3. XYZ Company, acting as invoicing and collection agent for ABC, will not be considered as doing business within South Carolina provided such services are not performed within South Carolina.
4. XYZ Company, acting as a purchasing and disbursing agent for ABC during the start-up period, will not be subject to South Carolina income tax if appropriate charges are made to ABC provided these services are not performed within South Carolina. It is the Commission's understanding that services actually performed within South Carolina will be performed by ABC employees.
5. Inventories of manufacturers are exempt from personal property tax, except manufactured articles which have been offered for sale at retail pursuant to S.C. Code Section 12-37-220(6).
6. XYZ Company can elect to file consolidated returns with ABC provided both corporations are subject to tax and both apportion their income. Rules for filing a consolidated return are found at Regulation 117-77.

7. XYZ Company's intercompany invoicing for materials or services performed outside of South Carolina, at reasonable and arm's length intercompany prices, will not subject XYZ to South Carolina income 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
June 4 _____, 1987