



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

SC PRIVATE LETTER RULING #89-1

TO: XYZ, Inc.

SUBJECT: Tax Credit for New Jobs

REFERENCE: S.C. Code Ann. Section 12-7-230 (Supp. 1987)
S.C. Code Ann. Section 12-7-1220 (Supp. 1987)

AUTHORITY: S.C. Code Section 12-3-170
SC Revenue Procedure #87-3

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 general distribution.

Question:

When computing their respective new job tax credit, should XYZ, Inc. or ABC include the new full-time employee jobs at XYZ attributable to the ABC production line?

Facts:

X, Inc. is the holding company of two wholly-owned subsidiaries: ABC, Inc. and XYZ, Inc.; the latter having a manufacturing facility in a South Carolina. In the fall of 1986, ABC transferred a production line from an out of state location to XYZ's South Carolina facility thereby increasing XYZ's employment level. Employees utilized in the production line were hired by, controlled by and considered employees of XYZ for state withholding and employment tax reporting purposes. ABC reimburses XYZ for the cost of gross wages, related employee expenses and rent. The machinery and equipment for the production line was owned by ABC. Effective January 1, 1989, the assets of ABC at the South Carolina facility were transferred to XYZ. Thus for 1989 and after, the payroll, property and income of the production line will belong to XYZ.

X, Inc. requests a ruling as to which subsidiary should be allowed a tax credit for the new jobs created by the transfer of the ABC production line.

Discussion:

Section 12-7-1220 allows job tax credits to qualifying companies that create additional new full-time employee jobs. The number of new full-time jobs is determined by comparing the monthly average number of full-time employees subject to South Carolina income tax withholding by the taxable year with the corresponding period of the prior taxable year. The sale or acquisition of any business facility may not create new job tax credit, but any unused job tax credit may be transferred and continued by any transferee of the business.

The employees in question were hired by, controlled by and treated as employees of XYZ for South Carolina withholding and employment tax purposes. Thus as provided in Section 12-7-1220, XYZ should include the new full-time employee jobs in their computation of the new job tax credit.

Even if the employees were determined to be employees of ABC, with the transfer of the production line to XYZ effective January 1, 1989, XYZ could utilize any unused new job credit.

Conclusion:

The new full-time employee jobs created at XYZ, but attributable to ABC's production line, should be included in XYZs' computation of the new job tax credit.

SOUTH CAROLINA TAX COMMISSION

s/S. Hunter Howard Jr.
S. Hunter Howard, Jr., Chairman

s/A. Crawford Clarkson Jr.
A. Crawford Clarkson, Jr., Commissioner

s/T. R. McConnell
T. R. McConnell, Commissioner

Columbia, South Carolina
February 22, 1989