



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

SC PRIVATE LETTER RULING #89-16

TO: ABC Commission

SUBJECT: Farm Equipment- Exemption
(Sales and Use)

REFERENCE: S.C. Code Ann. Section 12-35-550(17) (1976)
S.C. Code Ann. Section 12-35-820(2) (1976)

AUTHORITY: S.C. Code Ann. Section 12-3-170 (1976)
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:

Are purchases of certain farm equipment by the ABC Commission ("Commission) exempt from taxation, pursuant to S.C. Code Section 12-35-550(17) and 12-35-820(2)?

Facts:

The primary function of the ABC Commission ("Commission"), a state agency, is to conserve the state's land-based natural resources by providing professional, technical and financial assistance to the State's 46 conservation districts.

The Commission also coordinates development of erosion and sediment control programs for the state; assures the usefulness, productivity and scenic values of land and water disturbed by mining activity; reduces the risk of failure of certain dams in the interest of public safety; collects and disseminates information about the land and related resources; and assures professional credibility through registration of professional landscape architects and soil classifiers.

As part of a special program, the Commission is to purchase thirty-eight (38) pieces of conservation tillage equipment and eighteen (18) drip trickle irrigation installation machines and trailers. This equipment is being purchased through a special grant, approved through the Governor's office.

The equipment will be owned by the Commission and assigned to the conservation districts for use by farmers. The purpose of the program is to make South Carolina farmers aware of new agricultural technologies and techniques.

Discussion:

S.C. Code Section 12-35-550(17) exempts, from the sales tax, "[t]he gross proceeds of the sale of animal or motor drawn or operated machinery used in the planting, cultivation or harvesting of farm crops...; provided that the term 'machines'...shall include the parts of such machines, attachments and replacements therefore...". Note, it is the use of the machinery which determines whether the exemption applies; not its ownership. See Hercules Contractors and Engineers, Inc. v. S.C. Tax Commission, 280 S.C. 426, 313 SE2d 300 (1984).

Further, S.C. Code Section 12-35-820(2) exempts from the use tax, "[a]ll property specifically exempted from the tax imposed by the provisions of Article 5 of this chapter [sales tax]".

Regulation 117-174.243 further explains the exemption provided at Code Section 12-35-550(17). That regulation reads, in part:

In order to qualify for the exemption, the item must first constitute a machine; secondly, it must be animal or motor drawn or operated; and thirdly, it must be used in the planting, cultivating or harvesting of farm crops.

The word "planting" is construed to include all necessary steps in the preparation of the soil prior to and including the actual planting or sowing of the seed.

"Cultivation" is construed to include loosening of the soil around growing plants, control of moisture content of the soil, weed and pest control.

"Harvesting" is deemed to commence with the gathering of the crop and to be complete when the crop is placed in a temporary or permanent storage area. Provided, however, that the term shall also include the further preparation for storage or sale of certain crops such as curing tobacco, grains, peanuts, and the grading and packaging of peaches, cucumbers, tomatoes, etc.

The equipment in question is machinery, which is motor drawn or operated. The remaining question is whether the equipment is used "in the planting, cultivating or harvesting of farm crops".

The "conservation tillage equipment" will be is used to plant various types of farm crops. The "drip trickle irrigation installation equipment" is a device mounted on a special trailer, and pulled by a tractor. This equipment performs several interrelated functions. It forms beds for the planting of crops, lays down plastic tubing for the supplying of water, and covers the bed and tubing with a sheet of plastic. The sheet of plastic serves to hold moisture in the soil.

Conclusion:

Purchases of the farm equipment in question, by the Land Resources Conservation Commission, are exempt for taxation, pursuant to S.C. Code Sections 12-35-550(17) and 12-35-820(2). The equipment is to be used "in the planting, cultivating or harvesting of farm crops."

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
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