



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

SC PRIVATE LETTER RULING #89-8

TO: XYZ, Inc.

SUBJECT: Cash Discounts Allowed and Taken/Gross Proceeds of Sales
(Sales Tax)

REFERENCE: S.C. Code Ann. Section 12-35-30 (1976 and Supp. 1988)
S.C. Code Ann. Section 12-35-510 (1976)
S.C. Code Ann. Section 12-35-570 (Supp. 1988)

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:

May XYZ, Inc. take a deduction on its sales tax return for cash discounts allowed and taken by its customers, pursuant to Code Section 12-35-30?

Facts:

XYZ, Inc. is in the business of making retail sales of pumps and piping used in irrigation systems. Their customers include farmers, builders, home owners, etc.

The company has a policy of allowing a discount for certain customers who pay within a specified time period. However, such customers have not been allowed a discount on the sales tax. The discount has only been allowed on the price of the goods.

Discussion:

Code Section 12-35-510 imposes "upon every person engaged or continuing within this State in the business of selling at retail any tangible personal property...an amount equal to [five] percent of the gross proceeds of sales of the business" (emphasis added).

The phrase "gross proceeds of sales", the measure of the sales tax, is defined at Code Section 12-35-30 and reads, in part:

The term "gross proceeds of sales" means the value proceeding or accruing from the sale of tangible personal property (and including the proceeds from the sale of any property handled on consignment by the taxpayer), including merchandise of any kind and character without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid or any other expenses whatsoever and without any deductions on account of losses provided, that:

- (1) Cash discounts allowed and taken on sales shall not be included; (emphasis added).

Black's Law Dictionary, Fifth Edition, defines "cash discounts" as [a] deduction from billed price which seller allows for payment within a certain time; e.g. 10% discount for payment within 10 days".

Further, Code Section 12-35-570 reads, in part:

The taxes levied under the provisions of this article [Article 5: "Sales Tax"], except as otherwise provided, are due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the tax accrues.

"The intention of the legislature is to be gathered from a consideration not of a single clause, sentence or section in the act, but from a consideration of the statute as a whole, including amendments, and the courts must, if possible, give effect to every word the statute contains and reconcile the terms employed therein so as to render it consistent and harmonious." 68 Am. Jurs. 2d Sales and Use Tax Section 14.

In summary, reading the aforementioned code sections together, the measure of the tax ("gross proceeds of sales") does not include cash discounts "allowed and taken". However, the tax is due on the return for the month in which the sale occurs. For example, if a sale occurs in April, then tax is due on the full sales price on the April return, even though payment has not been received. If, upon payment, the discount "allowed" is now "taken" by the customer, the discount then would be "allowed and taken", thereby, excluded from the measure of the tax. Therefore, on a return subsequent to the reporting month, a deduction would be allowed for the amount of the discount.

Conclusion:

XYZ, Inc. may take a deduction on its sales tax return for cash discounts allowed and taken, pursuant to Code Section 12-35-30.

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
May 3, 1989