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State of South Carolina  
Department of Revenue  
301 Gervais Street, P.O. Box 125, Columbia, South Carolina 29214

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SC PRIVATE LETTER RULING #99-1

TO: XYZ, Inc.

SUBJECT: Sales of Feed for Horses  
(Sales & Use Taxes)

DATE: August 9, 1999

REFERENCE: S. C. Code Ann. Section 12-36-2120(4) (Supp. 1998)  
S. C. Code Ann. Section 12-36-2120(5) (Supp. 1998)  
Regulation #117-174.12

AUTHORITY: S. C. Code Ann. Section 12-4-320 (Supp. 1998)  
SC Revenue Procedure #97-8

SCOPE: A Private Letter Ruling is an official advisory opinion issued by the Department of Revenue to a specific person.

NOTE: A Private Letter Ruling may only be relied upon by the person to whom it is issued and only for the transaction or transactions to which it relates. A Private Letter Ruling has no precedential value.

Question:

Are all sales by XYZ, Inc. ("XYZ") of feed used for horses exempt from the South Carolina sales and use taxes?

Conclusion:

Yes. It is the opinion of the Department that sales made by XYZ of feed used for horses are exempt from the South Carolina sales and use taxes. In such cases, XYZ should have the customer fill out and sign a Form ST-8F, "Agricultural Exemption Certificate."

Law/Discussion:

Code Section 12-36-2120(5) exempts from the South Carolina sales and use taxes sales of "feed used for the production and maintenance of poultry and livestock." Section 12-36-2120(4), which exempts sales of livestock, defines the term as:

domesticated animals, customarily raised on South Carolina farms for use primarily as beasts of burden, or food, and certain animals raised for their pelts or fur. Animals such as dogs, cats, reptiles, fowls (except baby chicks and poults), and animals of a wild nature, are not considered livestock.

Regulation #117-174.12, which pertains to the livestock exemption, reads, in part:

The practical result of the foregoing [language in the regulation] is to exempt from the tax sales of *horses*, mules, cattle, swine, sheep, goats, rabbits....  
(Emphasis added.)

Reading the language from Section 12-36-2120(4) with the language in Regulation 117-174.12, establishes that horses are “livestock.”

The department has applied the exemption for feed used for horses to include all sales of feed used for horses for many years. Therefore, it is the position of the department that all sales by XYZ of feed used for horses are also exempt.

It is a well settled rule of statutory construction that administrative interpretations of statutes by the agency charged with their administration and not expressly changed by the legislative body are entitled to great weight. Marchant v. Hamilton, 279 S.C. 497, 309 S.E.2d 781(1983). When the construction or administrative interpretation of a statute has been applied for a number of years and has not been changed by the legislature, there is created a strong presumption that such interpretation or construction is correct. Ryder Truck Lines, Inc. v. South Carolina Tax Commission, 248 S.C. 148, 149 S.E.2d 435 (1966); Etiwan Fertilizer Company v. South Carolina Tax Commission, 217 S.C. 354, 60 S.E.2d 682 (1950). See Statutes Key Nos. 219(3) & 223.5(2).

When XYZ sells feed tax-free pursuant to the exemption under Section 12-36-2120(5), it is suggested that the purchaser be asked to fill out and sign a Form ST-8F, “Agricultural Exemption Certificate.” (Copy attached.) If it is found that feed was purchased for a non-exempt purpose, and XYZ has a completed Form ST-8F from the purchaser on file, the department will look to the purchaser for the tax. XYZ is encouraged to keep the filled out and signed Form ST-8F on file in the event of an examination by the department.