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

SC REVENUE ADVISORY BULLETIN 00-03

SUBJECT: All Terrain Vehicles and Legend Race Cars Maximum Tax Provisions
(Sales and Use Tax)

EFFECTIVE DATE: Applies to all periods open under the statute.

SUPERSEDES: All previous documents and any oral directives in conflict herewith.

REFERENCES: S. C. Code Ann. Section 12-36-2110 (Supp. 1998)
S. C. Code Ann. Section 56-3-20 (1976; Supp. 1998)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (Supp. 1998)
S. C. Code Ann. Section 1-23-10(4) (Supp. 1998)
SC Revenue Procedure #99-4

SCOPE: The purpose of a Revenue Advisory Bulletin is to provide guidance to the public and to Department personnel. It is a written statement issued to apply principles of tax law to a specific set of facts or a general category of taxpayers. **A Revenue Advisory Bulletin does not have the force or effect of law, and is not binding on the public.** It is, however, the Department's position and is binding on agency personnel until superseded or modified by a change in statute, regulation, court decision, or advisory opinion.

Questions:

1. Are sales of all terrain vehicles as described in the facts entitled to the maximum tax under Code Section 12-36-2110 as "motor vehicles" or "recreational vehicles?"
2. Are sales of legend race cars as described in the facts entitled to the maximum tax under Code Section 12-36-2110 as "motor vehicles" or "recreational vehicles?"

Conclusions:

1. It is the department's opinion that sales of all terrain vehicles as described in the facts are not entitled to the maximum tax under Code Section 12-36-2110.
2. It is the department's opinion that sales of legend race cars as described in the facts are not entitled to the maximum tax under Code Section 12-36-2110.

Facts:

The question has arisen as to whether all terrain vehicles or legend race cars are entitled to the maximum tax of \$300.

All terrain vehicles are vehicles with three or more wheels designed for off road use. These vehicles can be titled but cannot be licensed for use on the highways of South Carolina.

Legend race cars are automobile race cars powered by motorcycle engines and used at various speedways around the nation. These vehicles can be titled but cannot be licensed for use on the highways of South Carolina.

Discussion:

The issue is whether all terrain vehicles and legend race cars are “motor vehicles” or “recreational vehicles” entitled to the maximum tax of \$300 as set forth in Code Section 12-36-2110(A).

Code Section 12-36-2110(A) reads in part:

(A) The maximum tax imposed by this chapter is three hundred dollars for each sale made after June 30, 1984, or lease executed after August 31, 1985, of each:

- (1) aircraft, including unassembled aircraft which is to be assembled by the purchaser, but not items to be added to the unassembled aircraft;
- (2) motor vehicle;
- (3) motorcycle;
- (4) boat;
- (5) trailer or semitrailer, pulled by a truck tractor, as defined in Section 56-3-20, and horse trailers but not including house trailers or campers as defined in Section 56-3-710;
- (6) recreational vehicle, including tent campers, travel trailer, park model, park trailer, motor home, and fifth wheel; or
- (7) self-propelled light construction equipment with compatible attachments limited to a maximum of one hundred sixty net engine horsepower.

In the case of a lease, the total tax rate required by law applies on each payment until the total tax paid equals three hundred dollars. Nothing in this section prohibits a taxpayer from paying the total tax due at the time of execution of the lease, or with any payment

under the lease. To qualify for the tax limitation provided by this section, a lease must be in writing and specifically state the term of, and remain in force for, a period in excess of ninety continuous days.

Even though Code Section 12-36-2110 does not refer to the definition in Code Section 56-3-20 with respect to "motor vehicles" (it does with respect to trailers and semitrailers), under the above rule of construction, it is proper to do so under the rule of statutory construction of statutes in pari materia.

The following from 73 Am. Jur. 2D Statutes Section 188 explains this rule of construction:

Under the rule of statutory construction of statutes in pari materia, statutes are not to be considered as isolated fragments of law, but as a whole, or as parts of a great, connected, homogenous system. Such statutes are considered as if they constituted but one act, so that sections of one act may be considered as though they were parts of the other act, as far as this can reasonably be done. Indeed, as a general rule, where legislation dealing with a particular subject consists of a system of related general provisions indicative of a settled policy, new enactments of a fragmentary nature on that subject are to be taken as intended to fit into the existing system and to be carried into effect conformably to it, unless a different purpose is shown plainly.

Code Section 56-3-20 defines a "motor vehicle" as follows:

(2) "Motor vehicle:" Every vehicle which is self-propelled, except mopeds, and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails; (Emphasis added.)

Code Section 56-3-20 defines a "vehicle" and "highway" as follows:

(1) "Vehicle:" Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks; (Emphasis added.)

(25) "Street" or "highway:" The entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Based on the phrase "is or may be transported or drawn upon a highway" as found in the definition of "vehicle," a motor vehicle or a recreational vehicle is one which is authorized for use on the highways of this state.

All terrain vehicles and legend race cars are not authorized to operate on the highways of this state.

Based on the above, it is the department's opinion that sales of all terrain vehicles and legend race cars, as described in the facts, are not entitled to the maximum tax under Code Section 12-36-2110.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Elizabeth Carpentier
Elizabeth Carpentier, Director

March 27, 2000
Columbia, South Carolina