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

SC REVENUE ADVISORY BULLETIN #01-9

SUBJECT: Personal Motor Vehicles Subject to Reduced Assessment Ratio (Property Tax)

EFFECTIVE DATE: Property Tax Years Beginning After 2001

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

REFERENCES: S. C. Constitution, Article X, Section 1(8)(B)(1)
S. C. Code Ann. 12-37-2680 (Supp. 2000)
S. C. Code Ann. 56-3-630 (Supp. 2000)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (Supp. 2000)
S. C. Code Ann. Section 1-23-10(4) (Supp. 2000)
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and is not binding on the public.** It is, however, the Department's position and is binding on agency personnel until superseded or modified by a change in statute, regulation, court decision, or advisory opinion.

Question:

Which vehicles qualify as "personal motor vehicles" for purposes of Article X, Section 1(8)(B) of the South Carolina Constitution? Article X, Section 1(8)(B) provides for a reduced assessment ratio for "personal motor vehicles, which must be titled by a state or federal agency, limited to passenger motor vehicles and pickup trucks, as defined by law."

Conclusion:

In the Department’s opinion, motor vehicles, except motorcycles, motorcycle three-wheel vehicles and motor driven cycles, which are designed, used, and maintained for the transportation of ten or fewer persons and trucks having an empty weight of seven thousand pounds or less and a gross weight of nine thousand pounds or less are personal motor vehicles subject to the reduced assessment ratio provided for in Article X, Section 1(8)(B) of the South Carolina Constitution if the motor vehicle is used primarily by an individual for his personal (non-business) use. Counties may presume that the motor vehicle is used by an individual for his personal use when the vehicle is titled or registered in the name of, or for the personal use of, an individual; however, nothing restricts counties from further inquiry and determination of whether motor vehicles titled to individuals are actually used in a business.

Discussion:

The Constitutional Amendment

Last November, a Constitutional Amendment was proposed that would reduce the assessment ratio applicable to certain motor vehicles.¹ The amendment was submitted to the qualified electors at the general election of 2000 as prescribed in Section 1, Article XVI of the Constitution, and the amendment received a favorable vote. The amendment was ratified on March 6, 2001 and is effective for property tax years beginning after 2001. Section 1(8), Article X of the South Carolina Constitution reads as follows:

“(8)(A) Except as provided in subitem (B) of this item, all other personal property must be taxed on an assessment equal to ten and one-half percent of the fair market value of the property.

(B)(1) Personal motor vehicles which must be titled by a state or federal agency² limited to passenger motor vehicles and pickup trucks, as defined by law, must be taxed on an assessment equal to the following percentage of fair market value of property:

Property Tax Year Percentage

Year 1	9.75
Year 2	9.00
Year 3	8.25

¹ “Motor Vehicle” means 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. Code Sections 56-3-20(2) and 56-19-10(16).

² Code Section 56-19-230 provides that every owner, which is in this State and for which no certificate of title has been issued by the Department of Public Safety, has to make application to the Department for a certificate of title.

Year 4	7.50
Year 5	6.75
Year 6 and after	6.00

(2) This subitem applies for property tax years beginning after 2001 or for earlier tax years as the General Assembly may provide by law.”

Which Motor Vehicles Qualify as “Passenger Motor Vehicles and Pickup Trucks, as Defined by Law”?

The term “personal motor vehicle” is first limited to those vehicles that are “passenger motor vehicles and pickup trucks, as defined by law.” Therefore, we must first look to definitions in South Carolina law to determine which “passenger motor vehicles and pickup trucks” are eligible for the reduced assessment under the amendment. Unfortunately, nothing in the South Carolina Code defines the exact phrases “personal motor vehicle” or “passenger motor vehicles and pickup trucks.” There is, however, a definition of “private passenger motor vehicle” in Code Section 56-3-630. That code section reads, in relevant part, as follows:

“The department [of Public Safety] shall classify as a private passenger motor vehicle, every motor vehicle, except a motorcycle, motorcycle three-wheel vehicle, or motor driven cycle, which is designed, used, and maintained for the transportation of ten or fewer persons and trucks³ having an empty weight of seven thousand pounds or less and a gross weight of nine thousand pounds or less....”

Even though Article X, Section 1(8)(B) of the Constitution does not specifically refer to Code Section 56-3-630, under the rules of statutory construction, it is reasonable to use that code section to define “passenger motor vehicles and pickup trucks” since it is the closest in language to the amendment and the amendment and Code Section 56-3-630 are in *pari materia*. The following from 73 AM JUR. 2D *Statutes* §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.

Further, it is the Department’s longstanding administrative policy to use the motor vehicle laws in defining terms related to motor vehicles that are found in the tax provisions of the law. See South Carolina Revenue Advisory Bulletin #00-3 and South Carolina Information Letter #98-13.

³ A “truck” is a motor vehicle designed, used or maintained primarily for the transportation of property. Code Sections 56-3-20(10) and 56-19-10(36).

Accordingly, it is the Department's position that "passenger motor vehicles" for purposes of the amendment, are those motor vehicles, other than motorcycles, motorcycle three-wheel vehicles, or motor driven cycles which are designed, used, and maintained for the transportation of ten or fewer persons.

The South Carolina Code has no definition of "pickup truck." The Department is of the opinion that "pickup trucks" as used in the amendment are those trucks having an empty weight of seven thousand pounds or less and a gross weight of nine thousand pounds or less as noted in Title 56. In its assessment guides, the Department will use the empty weight and the gross vehicle weight⁴ of a truck as provided by the manufacturer of the truck to determine if a truck meets the seven thousand pound and nine thousand pound requirements.

What is a "Personal Motor Vehicle Which Must Be Titled by a State or Federal Agency, Limited to Passenger Motor Vehicles and Pickup Trucks as Defined by Law"?

The next question that must be answered is what "personal" means in the context of the amendment, as the amendment does not define this term. For tax purposes, "personal" is often used to distinguish personal property from real property.⁵ It is also used to distinguish personal use of property from business use of property.⁶

It is a cardinal rule of statutory construction that significance and effect should be accorded to every word of a statute so long as doing so does not destroy the sense or effect of the law. See, 73 AM. JUR. 2D *Statutes* §250. To conclude that the word "personal" as used in the amendment refers to personal property as opposed to real property would render the use of the word "personal" meaningless since all motor vehicles are personal property, not real property.⁷ In the Department's opinion, to give significance to the term "personal" as used in the amendment, "personal" must refer to a "passenger motor vehicle or pickup truck" (hereinafter "motor vehicle") that is used for personal versus business use and not personal versus real property.

⁴"Gross weight" or "Gross vehicle weight" means the weight of a vehicle without load plus the weight of any load on it.

⁵This distinction is often important because personal property and real property are often taxed differently.

⁶This distinction is used in many tax situations including whether an expense is deductible for income tax purposes and may also affect the assessment ratio for property. For example, Article X, §§(1)(2) provides that companies engaged in transportation for hire receive a 9 ½% assessment ratio on personal property used in its business (including motor vehicles), while other taxpayer's have a 10 ½% assessment ratio on their personal property.

⁷In the 1999 legislative session, the legislature passed specific legislation that changes the taxation of motor homes to treat them as residences if the interest portion of indebtedness on such home is deductible pursuant to the Internal Revenue Code as interest expense on a qualified primary or secondary residence. Code Section 12-37-224.

Further, “personal” in its most common usage refers to matters or property of an individual. Words used in a statute should be taken in their ordinary and popular meaning, unless there is something in the statute which requires a different interpretation. *Hughes v. Edwards*, 256 S.C. 529, 220 S.E. 2d 231 (1975). See also, *Investors Premium Corporation v. SCTC*, 260 S.C. 13, 193 S.E. 2d 642 (1973). In the Department’s opinion, a “personal motor vehicle” is a “motor vehicle” that is used by an individual for his personal use.

While the Department has concluded that the term “personal motor vehicle” as used in the amendment refers to a “motor vehicle” that is used by an individual for his personal use, there are difficulties in determining whether a “motor vehicle” is used for an individual’s personal use.

The primary rule of statutory construction is to follow the intent of the legislature in enacting the law. All rules of statutory construction are for the purpose of ascertaining legislative intent. *Truesdale v. S.C. Highway Department*, 264 S.C. 221, 213 S.E. 2d 740 (1975).

In recent years, the legislature has expressed a concern that political subdivisions of the State not be required to take an action requiring the expenditure of funds unless money is appropriated to fund the action. See for example, Code Section 4-9-55. In the interpretation of a statute, a construction should be avoided which may produce litigation and insecurity or which would throw the administration of the law into uncertainty. Therefore, an interpretation should, if possible, be put upon the provisions of a law, which would permit the officials having responsibility for its administration to proceed in an orderly manner. A particular construction will be favored when it appears to be the only one, which will afford a fixed, permanent and certain rule to ascertain whether a particular case is to be included within or excluded from the operation of the statute. See, 73 AM. JUR. 2d §269.

It may be difficult and expensive for the county auditor to obtain and verify actual personal use and business use of the “motor vehicle,” and then determine whether the “motor vehicle” is being used primarily for the personal use of an individual. Requiring the county auditor to determine actual use of each “motor vehicle” in the county would require county personnel to devote more of their time and efforts to determining how the “motor vehicle” is used and may require the county to hire additional personnel.

The laws relating to titling and registering a “motor vehicle” provide a straightforward method to determine if the vehicle is registered or titled in the name of, or for the use of, an individual. These registration and titling provisions can be used without requiring significant additional county resources. See Code Sections 56-19-240 and 56-3-240. Therefore, in the Department’s opinion, counties may use ownership of the “motor vehicle” for title or registration purposes to create a presumption as to whether a “motor vehicle” is a “personal motor vehicle.”

If a “motor vehicle” is titled or registered in the name of an individual, the county may presume that the “motor vehicle” qualifies as a “personal motor vehicle.” A “motor vehicle” which is leased to an individual for a period of a year or more may be presumed to be a “personal motor vehicle.” If a “motor vehicle” is titled or registered in the name of a trust, other than a business trust, the “motor vehicle” will be presumed to be a “personal motor vehicle” if all of the

beneficiaries of such trust who may use the “motor vehicle” are individuals. If the “motor vehicle” does not meet one of the provisions in this paragraph, there is a presumption that it does not qualify as a “personal motor vehicle.”

Note: Nothing in this Revenue Advisory Bulletin restricts the counties from making further inquiries as to use of the “motor vehicle” to determine whether the “motor vehicle” is used for personal or business use.

For questions concerning this advisory opinion, contact Lisa Stokes at (803) 898-5491 or Sandy Houck at (803) 898-5478.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Elizabeth Carpentier

Elizabeth Carpentier, Director

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Columbia, South Carolina