

SC REVENUE RULING #08-9

SUBJECT: Sales of Horse Trailers and Stock Trailers
(Sales or Use Tax)

EFFECTIVE DATE: June 1, 2007

SUPERSEDES: SC Revenue Ruling #93-8 and all previous advisory opinions and any oral directives in conflict herewith.

REFERENCES: S.C. Code Ann. Section 12-36-910 (2000; Supp 2007)
S.C. Code Ann. Section 12-36-1310 (2000; Supp 2007)
S.C. Code Ann. Section 12-36-1110 (2000; Supp 2007)
S.C. Code Ann. Section 12-36-2110 (2000; Supp 2007)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (Supp. 2000)
S. C. Code Ann. Section 1-23-10(4) (2005)
SC Revenue Procedure #05-2

SCOPE: The purpose of a Revenue Ruling is to provide guidance to the public and to Department personnel. It is an advisory opinion issued to apply principles of tax law to a set of facts or general category of taxpayers. It is the Department's position until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion.

Question:

What amount of sales and use tax should be imposed upon the sales of horse trailers and stock trailers?

Conclusion:

The following outlines the proper sales and use tax to be imposed upon sales of horse trailers and stock trailers:

1. Basic stock trailers with no options are subject to tax at the rate of 6%¹ of the gross proceeds from the sale, plus any applicable local sales and use tax administered and collected by the Department of Revenue on behalf of a local jurisdiction.

¹ The 6% state tax rate became effective June 1, 2007. Prior to June 1, 2007, the state tax due on this sale was 5%, plus any applicable local sales and use tax administered and collected by the Department of Revenue on behalf of a local jurisdiction.

Basic horse trailers with no options are subject to tax at the lesser of 5% of the gross proceeds from the sale or \$300.

2. Stock trailers with a tack room and/or dressing room are subject to tax at the rate of 6%² of the gross proceeds from the sale, plus any applicable local sales and use tax administered and collected by the Department of Revenue on behalf of a local jurisdiction.

Horse trailers with a tack room and/or dressing room are subject to tax at the lesser of 5% of the gross proceeds from the sale or \$300.

3. Gooseneck stock trailers without a camper package are subject to tax at the rate of 6%³ of the gross proceeds from the sale, plus any applicable local sales and use tax administered and collected by the Department of Revenue on behalf of a local jurisdiction.

Gooseneck horse trailers without a camper package are subject to tax the lesser of 5% of the gross proceeds from the sale or \$300.

4. Trailers with a camper package⁴ (whether stock trailers or horse trailers) are subject to tax at the lesser of 5% of the gross proceeds from the sale or \$300.

Note: For purposes of this document, a stock trailer and a horse trailer do not include trailers or semitrailers that can only be pulled by a truck tractor and do not include house trailers or campers as defined in Section 56-3-710⁵.

Facts:

Questions have arisen concerning the application of sales and use tax on sales of horse trailers and stock trailers.

Horse and stock trailers can be purchased with a variety of options. Examples of the types of horse and stock trailers available include:

1. basic trailers with no options,
2. trailers with a tack room and/or dressing room,

² See footnote #1.

³ See footnote #1.

⁴ For purposes of this document, a trailer with a camper package, whether a stock trailer or a horse trailer, is one designed primarily to serve as temporary living quarters for recreational, camping or travel purposes.

⁵ Code Section 56-3-710 defines a "house trailer" as "every trailer or semitrailer which is designed, constructed, and equipped as a dwelling, living abode, or sleeping place, permanently or temporarily, and is equipped for use as a conveyance on streets or highways or a trailer or semitrailer of similar nature whose chassis and exterior shell is designed and constructed for use permanently or temporarily for advertising, sales, display, or promotion of merchandise or services or for another commercial purpose, except the transportation of property for hire or the transportation of property for distribution by a private carrier."

3. gooseneck trailers without a camper package,
4. trailers with a camper package.

The full camper packages can be custom built and include such options as a shower, vanity, holding tank, water tank, electrical hook-up, kitchen and beds.

The purpose of this document is to update SC Revenue Ruling #93-8 to address the imposition of the state sales and use tax and the \$300.00 maximum tax with respect to sales of horse trailers and stock trailers as a result of the increase in the state sales and use tax rate from 5% to 6% on June 1, 2007.

Discussion:

The sales tax and use tax are transactional taxes imposed upon the privilege of the business of selling at retail, or using, storing, or consuming tangible personal property in South Carolina. The general state sales and use tax rate was increased from 5% to 6% on June 1, 2007; however, the state sales and use tax rate on sales of items subject to the maximum tax remained 5%⁶.

Code Section 12-36-2110 establishes the maximum tax on the sale, use, storage, or consumption of certain items and reads, in part:

The maximum tax imposed by this chapter is three hundred dollars for each sale...of each:

* * *

(5) trailer or semitrailer, pulled by a truck tractor ... and horse trailers but not including 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 ...

⁶ Code Section 12-36-1110, which increased the state sales and use tax rate from 5% to 6% on June 1, 2007, states:

Beginning June 1, 2007, an additional sales, use, and casual excise tax equal to one percent is imposed on amounts taxable pursuant to this chapter, except that this additional one percent tax does not apply to amounts taxed pursuant to Section 12-36-920(A), the tax on accommodations for transients, nor does this additional tax apply to items subject to a maximum sales and use tax pursuant to Section 12-36-2110 nor to the sale of unprepared food which may be lawfully purchased with United States Department of Agriculture food coupons. (Emphasis added.)

In summary, Code Section 12-36-2110(A) establishes a maximum tax on trailers and semitrailers capable of being pulled only by a truck tractor, recreational vehicles and horse trailers.

We must now consider the issue of recreational vehicles that are subject to the \$300.00 maximum tax under Code Section 12-36-2110(A)(6).

A definition of "recreational vehicles" is not provided in Title 12 of the South Carolina Code of Laws. However, it is an accepted practice in South Carolina to resort to the dictionary to determine the literal meaning of words used in statutes. For cases where this has been done, see *Hay v. South Carolina Tax Commission*, 273 S.C. 269, 255 SE 2d 837 (1979); *Etiwan Fertilizer Co. v. South Carolina Tax Commission*, 217 S.C. 484, 60 SE 2d 682 (1950).

The Second College Edition of the American Heritage Dictionary defines recreational vehicle as:

[a] vehicle, as a camper or a motor home, used for traveling and recreational activities

The Second College Edition of the American Heritage Dictionary defines camper in part as:

2.a. A compact, vanlike vehicle resembling an automobile-and-trailer combination, designed to serve as a dwelling and used for camping or on long motor trips **b.** a portable shelter resembling the top part of a trailer, made to be mounted on a pickup truck to form such a vehicle

Based upon the above discussion, a recreational vehicle is one that is designed to serve as temporary living quarters for recreational, camping or travel purposes. Accordingly, a horse trailer or stock trailer also qualifies as a recreational vehicle if it is primarily designed to serve as temporary living quarters for recreational, camping or travel purposes.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Ray N. Stevens

Ray N. Stevens, Director

July 18 _____, 2008
Columbia, South Carolina