



SC REVENUE RULING #87-8

SUBJECT: Research and Development Machinery
Sales/Use Tax Limitation

EFFECTIVE DATE: Approval by Commission

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

REFERENCE: Act 550, Section 1, of 1986

AURHORITY: S.C. Code Section 12-3-170
SC Revenue Procedure #87-3

SCOPE: A Revenue Ruling is the Commission's official interpretation of how tax law is to be applied to a specific set of facts. A Revenue Ruling is public information and remains a permanent document until superseded by a Regulation or is rescinded by a subsequent Revenue Ruling.

Question:

Does the sales/use tax cap, provided by the referenced act, apply solely to manufacturing operations?

Facts:

The referenced act reads, in part, "For the period beginning July 1, 1986, and ending June 30, 1991, the maximum tax levied pursuant to Chapter 35 of Title 12 of the 1976 Code, on the sale or use of each item of machinery for research and development is \$300... . To be eligible for the limitation imposed by this section, the machinery must be located in a separate facility devoted exclusively to research and development"

"Machinery for research and development" is defined as, "machinery used directly and exclusively in research and development in the experimental or laboratory sense for new products, new uses for existing products, or for improving existing products."

The last sentence in the section specifies what research and development equipment is not. It reads: "The limitation does not extend to machinery used in connection with efficiency surveys, management studies, consumer surveys, economic surveys, advertising, promotion, or research in connection with literary, historical, or similar projects."

Discussion:

"It is a general rule that the courts may not, by construction, insert words or phrases in a statute, ... when applied to a subject about which nothing whatever is said, and which, to all appearances was not in the minds of the legislature at the time of the enactment of the law. Under such circumstances, new provisions or ideas may not be interpolated in a statute, or ingrafted thereon." (73 Am.Jur.2d 203.)

Section 1 of the act does not specify which entities are entitled to, or excluded from, the tax limitation imposed therein. However, it does provide that the limitation applies to "each item of machinery for research and development." Furthermore, it requires the machinery to be "located in a separate facility devoted exclusively to research and development as defined in this section."

Conclusion:

Based upon the foregoing discussion, it is determined that the usage and location of the machinery are controlling. As the act is silent concerning the user of such machinery, it is presumed that the legislature did not intend to limit the provisions of Section 1 to any particular entities. Therefore, the \$300 limitation applies to manufacturing and nonmanufacturing operations.

SOUTH CAROLINA TAX COMMISSION

s/S. Hunter Howard Jr.

S. Hunter Howard, Jr., Chairman

s/John M. Rucker

John M. Rucker, Commissioner

s/A. Crawford Clarkson Jr.

A. Crawford Clarkson, Jr., Commissioner

Columbia, South Carolina
September 30, 1987