



SC REVENUE RULING #89-1

SUBJECT: Uniform and Linen Rental Company – Laundering Supplies and Equipment
(Sales & Use Tax)

EFFECTIVE DATE: July 1, 1989

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

REFERENCE: S.C. Code Ann. Section 12-35-550(23) (Supp. 1987)
S.C. Code Ann. Section 12-35-1130 (Supp. 1987)

AUTHORITY: S.C. Code Ann. Section 12-3-170 (1976)
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 A Revenue Ruling is public information and remains a permanent document until superseded by a Regulation or is rescinded by a subsequent Revenue Ruling.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:

Are sales of supplies and machinery to a rental business, for use in laundering and dry cleaning uniforms and linens, which they rent, exempt from the sales and use tax, pursuant to Code Section 12-35-550(23)?

Facts:

A business, which rents uniforms and linens, operates a facility where such uniforms and linens are laundered or dry cleaned. In order to clean these items, supplies and various machinery have been purchased.

Code Section 12-35-550(23) exempts from the sales and use tax:

The gross proceeds of the sale of all supplies and machinery used by laundries, launderettes, cleaning, dyeing or pressing establishments, in the direct performance of their primary function. This exemption does not apply to the gross proceeds of sales of supplies and machinery used by coin-operated laundromats.

Discussion:

A discussion of the exemption found at Code Section 12-35-550(23), requires a review of Code Section 12-35-1130. That section reads, in part:

(A) Notwithstanding any other provision of law, the license and the sales or use tax imposed by this chapter shall apply with respect to the gross proceeds accruing or proceeding from the business of providing or furnishing any laundering, dry cleaning, dyeing, or pressing service.

Regulation 117-174.232 reads, in part:

"The gross proceeds accruing or proceeding from the business of providing or furnishing any laundering, dry cleaning, dyeing or pressing service," is construed to mean all charges made by such businesses including charges for repairing, altering, storing, pick-up, and delivery of the product so laundered, dry cleaned, dyed or pressed.

Regulation 117-174.241 reads, in part:

Persons operating places of business for the purpose of cleaning and/or dyeing of rugs must be licensed and must report and pay the sales tax measured by the gross proceeds derived from this cleaning or dyeing service. Such person would be entitled to the exemptions found at 12-35-550(23).

A person performing what is commonly referred to as janitorial service, that is washing windows, blinds, floors, rugs, upholstery, all or part thereof, in the home or place of business of his customers, is not liable for the license, but must pay the tax on all items of tangible personal property used in the performance of these services. This would be true of a person whose sole business is the cleaning of rugs and carpets in the home or place of business of his respective customers.

In summary, persons in the business of providing laundering, dry cleaning and dyeing services for a consideration are liable for the sales tax on the gross proceeds derived from such services. Such persons are also entitled to the exemption for supplies and machinery.

However, the issue is whether or not a lessor of uniforms and linens, who launders and dry cleans the uniforms and linens, which he rents, is entitled to the exemption for supplies and machinery, found at Code Section 12-35-550(23). That section exempts "...supplies and machinery used by laundries,dyeing or pressing establishments in the direct performance of their primary function" (emphasis added).

Regulation 117-174.233 reads:

A machine exempted from the tax under Section 12-35-550, paragraph 23 is construed to mean any machine used in the "production line" of such laundry, launderette, cleaning,

dyeing or pressing establishment, beginning with the marking of the garment for identification and ending with the wrapping or preparation of the garment for return to customer (emphasis added).

Regulation 117-174.234 reads:

Supplies are determined to mean supplies, including fuel, that are necessary to work with or on the garment in order to perform the primary function of the business. The exemption for supplies does not include equipment such as desks, chairs, typewriters, adding machines, cash registers, change machines, counters, delivery equipment, or any administrative or advertising supplies or equipment.

Furthermore, the Commission, in Decision S-D-83 dated January 11, 1973, held, in part:

Taxpayer has objected to inclusion of certain sales of washing machines with meters thereon in gross proceeds of sales; more particularly, sales of such machines to hotels and apartment complexes.

Section 65-1404(23) serves to exempt from the measure of the tax levied, assessed or payable "The gross proceeds of the sale of all supplies and machinery used by laundries, laundrettes, cleaning, dyeing or pressing establishments, in the direct performance of their primary function."

We are here concerned with an exemption from the tax and the rule of strict construction applies. The South Carolina Supreme Court has adopted the generally prevailing rule that exemptions in taxing statutes exist through legislative grace and one asserting an exemption must bring himself squarely within the statute authorizing the exemption. 85 C.J.S., Taxation 1099; Southern Weaving Co. v. Query, 34, S.E. 2d 51, 206 S.C. 307, and many others.

We have, therefore, concluded that only sales of coin operated washing machines to laundries, laundrettes, cleaning, dyeing or pressing establishments are exempted from the tax and believe that sales of such machines for use by guests of hotels and apartment complexes are subject to the tax (emphasis added).

The above cited Commission Decision was issued prior to the 1986 amendment to Code Section 12-35-550(23), which denies the exemption for supplies and machinery used by coin-operated laundromats.

In addition, we must consider several terms used in Code Section 12-35-550(23), but which are not defined in the statute.

One of the primary rules of statutory construction is that 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, 265 S.C. 529, 220 S.E. 2d 231 (1975); Investors

Premium Corp. v. South Carolina Tax Commission, 260 S.C. 13, 193 S.E. 2d 642 (1973). Also, where the terms of a statute are clear and unambiguous and leave no room for construction, they must be applied according to their literal meaning. Mitchell v. Mitchell, 266 S.C. 196, 222 S.E. 2d 217 (1976); Green v. Zimmerman, 269 S.C. 535, 238 S.E. 2d 323 (1977).

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 SC 269, 255 S.E. 2d 837 (1979); Fennell v. South Carolina Tax Commission, 233 S.C. 43, 103 S.E. 2d 424 (1958); Etiwan Fertilizer Co. v. South Carolina Tax Commission, 217 SC 484, 60 S.E. 2d 682 (1950).

The Second College Edition of the American Heritage Dictionary defines the following terms, as used in Code Section 12-35-550(23):

- "Establishment": A place of business, including possessions and employee.
- "Primary": Being first or best in degree, quality or importance (emphasis added).
- "Function": 1. The action for which a person or thing is particularly titled or employed. 2. a. Assigned duty or activity. b. Specific occupation or role:...(emphasis added).

In summary, the exemption for supplies and machinery applies to sales of such items to businesses, where the most important occupation or role is that of laundering or dry cleaning garments or other items for customers.

Conclusion:

Sales of supplies and machinery to a rental business, for use in laundering and dry cleaning uniforms and linens, which they rent, are not exempt from the sales and use tax.

SOUTH CAROLINA TAX COMMISSION

s/S. Hunter Howard Jr.

S. Hunter Howard, Jr., Chairman

s/A. Crawford Clarkson Jr.

A. Crawford Clarkson, Jr., Commissioner

s/T. R. McConnell

T. R. McConnell, Commissioner

Columbia, South Carolina
February 15, 1989