



SC REVENUE RULING #93-13 (TAX)

- SUBJECT:** Vehicle Declared a Total Loss by an Insurance Company
(Casual Excise Tax)
- EFFECTIVE DATE:** Applies to all periods open under the statute.
- SUPERSEDES:** All previous documents and any oral directives in conflict herewith.
- REFERENCE:** S.C. Code Ann. Section 56-19-480 (1976)
S.C. Code Ann. Section 12-36-2120 (Supp.1992)
S.C. Code Ann. Section 12-36-1710 (Supp.1992)
- AUTHORITY:** S.C. Code Ann. Section 12-4-320 (Supp. 1992)
SC Revenue Procedure #93-6
- SCOPE:** A Revenue Ruling is the Department of Revenue's official interpretation of how laws administered by the Department are to be applied to a specific issue or a specific set of facts, and applies to all persons or a particular group. It is valid and remains in effect until superseded or modified by a change in the statute or regulations or a subsequent court decision, Revenue Ruling or Revenue Procedure.

Question:

Is the transfer to an insurance company, in settlement of a claim, of a vehicle that has been declared a total loss subject to the casual excise tax under Code Section 12-36-1710?

Conclusion:

The transfer to an insurance company, in settlement of a claim, of a vehicle that has been declared a total loss is not subject to the casual excise tax under Code Section 12-36-1710.

Facts:

Many times when a vehicle is destroyed by a fire, collision or other causes, the vehicle is declared a total loss and ownership of the vehicle is transferred to an insurance company in settlement of a claim. The insurance company will then sell the vehicle for salvage.

Questions have arisen as to the application of the casual excise tax with respect to vehicles acquired by insurance companies in settlement of claims.

Discussion:

Code Section 12-36-1710 imposes the casual excise tax and reads in part:

In addition to all other fees prescribed by law there is imposed an excise tax for the issuance of every certificate of title, or other proof of ownership, for every motor vehicle, motorcycle, boat, motor, or airplane, required to be registered, titled, or licensed. The tax is five percent of the fair market value of the motor vehicle, motorcycle, airplane, boat, and motor.

In summary, the casual excise tax is imposed upon the issuance of a certificate of title or other proof of ownership for motor vehicles, motorcycles, boats, motors, or airplanes, unless specifically excluded from the tax.

While Code Section 12-36-1710 does not provide a specific exemption for a vehicle acquired by an insurance company in settlement of a claim, it does exempt from the tax the "gross proceeds of transfers of motor vehicles ... specifically exempted by Section 12-36-2120 from the sales or use tax".

Code Section 12-36-2120 exempts from the sales or use tax the gross proceeds of sales, or sales price of:

tangible personal property or receipts of any business which is prohibited from taxing by the Constitution or laws of the United States of America or by the Constitution or laws of this State.

Code Section 56-19-480 reads in part:

Any owner who scraps, dismantles, destroys, or in any manner disposes to another as wreckage or salvage, a vehicle otherwise required to be titled in this State shall immediately deliver to the Department the vehicle's certificate of title for cancellation notifying the Department to whom the vehicle is delivered.

If a vehicle is acquired by an insurance company in settlement of a claim to such vehicle by fire, collision, other causes, or is left with the insured after being declared a total loss by the insurance company, the company or its agent shall immediately deliver to the Department the vehicle's certificate of title for cancellation together with a report indicating the type and severity of damage to the vehicle. At such time as the insurance company may thereafter transfer the damaged vehicle, the company or its agent shall notify the Department to whom the transfer was made on a form prescribed by the Department. The vehicle may then be transferred as salvage by use of a form prescribed by the Department. The manufacturer's serial plate or vehicle identification number (VIN) plate shall remain with the vehicle at all times until the vehicle is shredded, crushed, melted, or destroyed.

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Vehicles acquired by insurance companies as outlined above are exempt from ad valorem property taxes and inventory taxes, and the transfers of the vehicles to and from insurance companies [are] exempt from sales taxes. (Emphasis added.)

In summary, the transfer to an insurance company of a vehicle that has been declared a total loss is not subject to the sales tax; and therefore, is not subject to the casual excise tax.

Note: See SC Revenue Ruling #92-10 for additional information concerning the casual excise tax.

For questions concerning the casual excise tax, contact Office Audit - Sales Tax at (803) 737-4788 or John P. McCormack at (803) 737-4438.