



SC REVENUE RULING #93-8

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

TAX ANALYST: Deana West

EFFECTIVE DATE: Applies to all periods open under statute.

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

REFERENCE: S.C. Code Ann. Section 12-36-2110 (Supp. 1992)

AUTHORITY: S.C. Code Ann. Section 12-4-320 (Supp. 1992)
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 A Revenue Ruling is public information and remains a permanent document until superseded by a Regulation or is rescinded by a subsequent Revenue Ruling.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:

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

Facts:

Questions have arisen concerning the application of sales tax 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 (see exhibit 1),
2. trailers with a tack room and/or dressing room (see exhibit 2),
3. gooseneck trailers without a camper package (see exhibit 3),
4. trailers with a camper package (see exhibit 4).

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 address the imposition of the 5% State sales and use tax or the \$300.00 maximum tax on sales of horse trailers and stock trailers.

Discussion:

Code Section 12-36-910(A) imposes a sales tax and reads, in part:

A sales tax, equal to five percent of the gross proceeds of sales is imposed upon every person engaged or continuing within this State in the business of selling tangible personal property at retail.

Code Section 12-36-1310(A) imposes a use tax and reads, in part:

A use tax is imposed on the storage, use, or other consumption in this State of tangible personal property purchased at retail for storage, use, or other consumption in this State, at the rate of five percent of the sales price of the property, regardless of whether the retailer is or is not engaged in business in this State.

Therefore, for the sales or use taxes to apply there must be a retail sale or purchase of tangible personal property.

Code Section 12-36-100 defines the terms "sale" and "purchase", in part, as:

...any transfer, exchange, or barter, conditional or otherwise, of tangible personal property for a consideration...

Based on the above, 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.

Code Section 12-36-2110(A), however, provides an exception to the five percent State tax rate. This section establishes a 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...

(6) recreational vehicle, including tent campers, travel trailer, park model, park trailer, motor home, and fifth wheel...

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 and also establishes a maximum tax on recreational vehicles. See Private Letter Ruling #89-10 concerning sales of horse/cattle trailers and semitrailers subject to the \$300 cap.

Since a horse trailer or stock trailer is capable of being pulled by vehicles other than a truck tractor, the maximum tax provided under Code Section 12-36-2110(A)(5) is not available for horse trailers and stock trailers.

We must now consider whether horse trailers and stock trailers are 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 American Heritage Dictionary defines recreational vehicle as:

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

The American Heritage Dictionary defines camper as:

(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

Furthermore, the following quote from 73 AmJur 2d, Statutes, Section 213, provides additional guidance in the interpretation of statutory terms:

...the meaning of particular terms in a statute may be ascertained by reference to words associated with them in the statute. It is also a familiar policy in the construction of a statute to take into consideration the meaning naturally attaching to them from the context, and to adopt that sense of the words which best harmonizes with the context. Thus, although words and sentences, or parts of sentences, have no very definite signification in their ordinary use, if a particular meaning and application appears from their use or connection in the statute, that meaning and application must be accepted as proper and controlling.

In reviewing Code Section 12-36-2110(A)(6), the legislature did not specifically list horse trailers or stock trailers as one of the items included in the term recreational vehicle. In looking at the items listed - tent campers, travel trailers, park model, park trailer, motor home and fifth wheel - these terms, as used in the recreational vehicle industry, indicate items that have sleeping accommodations and are designed to serve as temporary living quarters.

Finally, Commission Decision #88-192 provides guidance in determining what amount of sales and use tax should be imposed on sales of horse trailers and stock trailers. In this decision, the Commission considered whether pick-up trucks sold to military personnel were "automobiles" and therefore exempt from sales tax. At the time of this decision, the statute provided that only sales of "automobiles and motor bikes" to military personnel were exempt from the sales tax. The Commission concluded that "a truck is primarily designed for carrying loads and not passengers and thus is not within the plain meaning of the statute".

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 qualifies as a recreational vehicle if it is primarily designed to serve as temporary living quarters for recreational, camping or travel purposes.

Conclusion:

The proper State sales or use tax to be imposed upon sales of horse trailers and stock trailers are as follows:

1. Basic trailers with no options are subject to tax at the rate of 5% of the gross proceeds from the sale. (See exhibit 1)
2. Trailers with a tack room and/or dressing room are subject to tax at the rate of 5% of the gross proceeds from the sale. (See exhibit 2)
3. Gooseneck trailers without a camper package are subject to tax at the rate of 5% of the gross proceeds from the sale. (See exhibit 3)
4. Trailers with a camper package are subject to tax at the lesser of 5% of the gross proceeds from the sale or \$300. (See exhibit 4)

SOUTH CAROLINA TAX COMMISSION

s/A. Crawford Clarkson Jr.

A. Crawford Clarkson, Jr., Chairman

s/T. R. McConnell

T. R. McConnell, Commissioner

s/James M. Waddell Jr.

James M. Waddell, Jr., Commissioner

Columbia, South Carolina
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