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State of South Carolina  
Department of Revenue  
301 Gervais Street, P.O. Box 125, Columbia, South Carolina 29214

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SC REVENUE RULING # 97-21

**SUBJECT:** Mobile Property and Fee-in-Lieu of Property Taxes

**EFFECTIVE DATE:** Applies to all periods open under the statute.

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

**REFERENCES:** S.C. Code Ann. Section 4-29-67 (1996)  
S.C. Code Ann. Section 4-12-30 (1996)  
S.C. Code Title 44, Chapter 12 (Act. No. 149)

**AUTHORITY:** S. C. Code Ann. Section 12-4-320 (Supp. 1996)  
SC Revenue Procedure #97-8

**SCOPE:** A Revenue Ruling is the Department of Revenue's official advisory opinion of how laws administered by the Department are to be applied to a specific issue or a specific set of facts, and is provided as guidance for 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 It is valid and remains in effect until superseded or modified by a change in the statute or regulations or a subsequent court decision, Revenue Ruling or Revenue Procedure.

**Issue:**

May mobile property such as airplanes, trucks, boats and cars qualify for a fee in lieu of taxes (herein referred to as a “Fee”) under Code Sections 4-29-67 (herein referred to as the “Big Fee”), 4-12-30 (herein referred to as the “Little Fee”) or Chapter 44 of Title 12 (herein referred to as the “Simplified Fee”)?

**Conclusion:**

Mobile property such as airplanes, trucks, boats, etc. may not qualify for a Fee under the Big Fee, the Little Fee, or the Simplified Fee unless such property does not leave the project site.

**Facts and Discussion:**

Recently, the Department of Revenue has received a number of questions asking whether mobile property, such as trucks, cars, airplanes, boats, etc. may qualify for a Fee under the Big Fee, the Little Fee, or the Simplified Fee. Typically this property is first placed at a single site in the county which has granted the Fee, but then is used both inside and outside of that county.

In order to qualify for the Fee, property must meet three separate requirements: (1) it must not have been previously subject to property taxes in this State (subject to the exceptions provided in Code Sections 4-29-67(K)(for the Big Fee), 4-12-30(J)(for the Little Fee) or 12-44-110(for the Simplified Fee))<sup>1</sup>; (2) it must be the type of property that is considered part of a project as that term is defined in Code Sections 4-29-10(for the Big Fee), 4-12-10(for the Little Fee) and 12-44-30(for the Simplified Fee); and, (3) and the property that comprises the “project”, must be located in a single county, a multicounty industrial park, or on a contiguous tract of land in more than one county.

Generally, the type of property that can be considered part of the “project” consists of land, buildings or other infrastructure improvements on the land such as water, sewage treatment facilities or air pollution control facilities. Machinery, apparatus, equipment, office facilities, and furnishings which are considered necessary, suitable or useful may also qualify as part of the “project”. However, even if the mobile property described is considered to be necessary, suitable or useful equipment, it must meet all the other requirements for a “project”.

4-29-67(B) (which governs the Big Fee) states, in relevant part:

In order for property to qualify for the fee as provided in subsection (D)(2);

...(2) The investment must be a project which is located in a single county or an industrial development park as defined in Section 4-1-170. A project located on a contiguous tract of land in more than one county, but not in such an industrial

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<sup>1</sup>For purposes of this document it is assumed that the property has not previously been subject to property taxes in this State.

development park, may qualify for the fee provided (a) the counties agree on the terms of the fee and the distribution of the fee payment; (b) the minimum millage rate cannot be lower than the millage rate applicable to the county in which the greatest amount of investment occurs; and (c) all such counties must be parties to the fee agreement establishing the terms of the fee. [emphasis added]

Code Section 4-12-30(B) (which governs the Little Fee) provides in relevant part:

In order for property to qualify for the fee as provided in subsection (D)(2);

...(2) The investment must be a project which is located in a single county or an industrial development park as defined in Section 4-1-170. A project located on a contiguous tract of land in more than one county, but not in such an industrial development park, may qualify for the fee if:

- (a) the counties agree on the terms of the fee and the distribution of the fee payment;
- (b) the minimum millage rate is not lower than the millage rate applicable to the county in which the greatest amount of investment occurs; and
- (c) all the counties are parties to all agreements establishing the terms of the fee. [emphasis added]

Code Section 12-44-40(G) (which governs the Simplified Fee) provides:

The project which is the subject of the fee agreement must be located in a single county or in a multicounty park or on contiguous tracts of land in more than one county. When a tract crosses a county boundary, all counties in which the tract is located must be parties to the fee agreement, which must provide the manner in which the fee payments must be distributed among the counties and the fee agreement must set forth a minimum millage rate not lower than the millage rate applicable to the site in the county where the greatest amount of investment occurs. [emphasis added]

Therefore, all property which comprises the “project” must be located in a single county, a multicounty industrial park, or on a contiguous tract of land in more than one county. Thus, any decision as to whether movable property may qualify for a Fee under the above mentioned provisions must focus not just on whether the property is the type of property that may be included in the project, but also on whether such property is “located” in the county, a multicounty industrial park, or a contiguous tract of land in more than one county, irrespective of whether it has a situs there for property tax purposes.

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 Hays v. South Carolina Tax Commission, 273 S.C. 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 S.C. 484, 60 S.E. 2d 682 (1950).

The Second College Edition of the American Heritage Dictionary provides the following definitions:

“Locate” - “To determine or specify the position or limits of. To station, situate, or store. To become established; settle.”

“Settle” - “To put firmly in a desired position or place; establish.”

In summary, the word “located” means settled or established. The very nature of mobile property such as planes, boats, rolling stock, etc. is that its location is not settled or established. The use and placement of such machinery, apparatus or equipment is generally not limited to a site in a county, a multicounty industrial park, or a contiguous tract of land in more than one county as is required for such machinery, apparatus or equipment to be part of the “project” that is the subject of the Fee. Therefore, property that is moved from the site and which is used both off and on that site, cannot be said to be “located” in the county (or the multicounty industrial park or on a contiguous tract of land in more than one county). However, when the use of the machinery, equipment or apparatus is limited to a site in a county, a multicounty industrial park or a contiguous tract of land in more than one county, it will be considered to be part of the “project” and may therefore qualify for Fee treatment.

If you have questions about this document, you may contact Jerilynn VanStory at (803)898-5151.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Burnet R. Maybank III  
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Burnet R. Maybank III, Director

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