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

SC REVENUE RULING #97-23

SUBJECT: Telephone Calling Cards
(Sales Tax)

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 12-36-2120 (Supp. 1996)

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 It is valid and remains in effect until superseded or modified by a change in the statute or regulations or a subsequent court decision, Revenue Ruling or Revenue Procedure.

Question:

Is the sale of a prepaid telephone calling card for use in making local, long distance, or international telephone calls subject to South Carolina sales tax?

Conclusion:

The sale of a prepaid telephone calling card for use in making local, long distance, or international telephone calls is **not** subject to sales tax since this transaction is not a sale of tangible personal property. The transaction is merely the exchange of money for an intangible evidence of debt - a future right to telephone service.

The taxable transaction takes place when the telephone calling card is used. South Carolina imposes a sales tax on local telephone calls made in South Carolina. Since South Carolina exempts from sales tax any charges for long distance telephone calls, the provider of long distance or international telephone calls originating in South Carolina is **not** liable for sales tax on the use of a prepaid telephone calling card.

The provider of the local telephone call **is** liable for the 5% sales tax on local calls made with the calling card. If, however, the provider is a customer owned coin-operated telephone (COCOT) provider, the sales tax on the local call is due when the COCOT purchases the local service from the local exchange companies pursuant to Code Section 12-36-110(1)(k).

Facts:

Telephone calling cards are sold by telephone companies, convenience stores, and other retail outlets. The purchaser buys a calling card that may be used to make local, long distance, or international calls. Depending on the calling card, the purchaser can use the card for calls which cost a certain amount or for a predetermined number of minutes. A telecommunications company will provide the local or long distance service. The question has arisen as to whether the sale of prepaid calling cards, or the subsequent use by the cardholder, is a sale of tangible personal property subject to South Carolina sales tax.

Discussion:

Code Section 12-36-910(A) imposes a 5% sales tax on every person engaged in the business of selling tangible personal property in South Carolina at retail.

The terms “sale” and “purchase” are defined in Code Section 12-36-100 as “any transfer, exchange, or barter, conditional or otherwise, of tangible personal property for a consideration...” The term “tangible personal property” is defined in Code Section 12-36-60 and includes telephone and other services and intangibles, but does not include evidences of debt.

Although the term “consideration” is not defined in the statute, the Department has reviewed the meaning of the term in an analogous situation concerning hotel travel points that could be purchased and redeemed at various resort facilities for accommodations, meals, green fees, and the like. In SC Private Letter Ruling #90-8, the Department determined that consideration is not limited to a money consideration and concluded that the transfer of tangible personal property or accommodations takes place when the travel points are redeemed.

Other similar nontaxable transactions include the sale of gift certificates or traveler’s checks. The taxable transaction occurs at the time the gift certificate or traveler’s check is redeemed.

Based upon the above, the purchase of the telephone calling card is not a taxable transaction since the transaction is merely an exchange of money for an evidence of debt - an intangible future right to telephone service. The taxable transfer of tangible personal property takes place when the calling card is used since the purchaser is exchanging a future right to telephone service for the telephone service (defined by Code Section 12-36-60 to be tangible personal property and subject to taxation under Code Section 12-36-910(B)(3).) The use of the calling card for long distance or international calls is not subject to South Carolina sales tax since South Carolina exempts any charges for long distance telephone calls pursuant to Code Section 12-36-2120(11). The use of the calling card for local calls, however, is not exempt from South Carolina=s 5% sales tax.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Burnet R. Maybank III

Burnet R. Maybank III, Director

December 29, 1997
Columbia, South Carolina