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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 #98-17

**SUBJECT:** Reimbursement of the Additional Depreciation  
Allowed for Manufacturer's Machinery and Equipment

**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 12-37-935 (Supp. 1997)

**AUTHORITY:** S. C. Code Ann. Section 12-4-320 (Supp. 1997)  
S. C. 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superseded or modified by a change in the statute or  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:

S.C. Code Ann. Section 12-37-935(B) (Supp. 1997) provides for the State to reimburse all local taxing entities the amount of revenue not collected as a result of the additional depreciation of more than eighty percent allowed for manufacturer's machinery and equipment under Section 12-37-935(A).

Does such reimbursement apply to revenues lost as result of the excess depreciation of property that is located in a Joint Industrial or Business Park<sup>1</sup> or property that is under a negotiated fee-in-lieu of property tax arrangement pursuant to S.C. Code Ann. Sections 4-12-30, 4-29-67, and 12-44-10 *et seq.*?

Conclusion:

Property located in a Joint Industrial or Business Park and property that is under a negotiated fee-in-lieu of property tax arrangement pursuant to S.C. Code Ann. Sections 4-12-30, 4-29-67, and 12-44-10 *et seq.*, will qualify for the state reimbursement provided for under S.C. Code Ann. Section 12-37-935(B) (Supp. 1997).

Statutes:

Section 12-37-930 provides in relevant part:

Fair market value of manufacturer's machinery and equipment used in the conduct of the manufacturing business, . . . , must be determined by reducing the original cost by an annual allowance for depreciation as stated in the following schedule...[subject to a maximum floor as provided in Section 12-37-935].

. . . Cost investment will be based upon the gross cost of assets in South Carolina as shown on the manufacturer's property tax and fee-in-lieu of property tax filings. . . . (Emphasis added.)

Section 12-37-935 provides in relevant part:

(A) [T]he original cost must not be reduced more than the percentage provided in the following schedule:

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<sup>1</sup>Article VIII, §13(D) of the S.C. Constitution provides in part:

(D) Counties may jointly develop an industrial or business park with other counties within the geographical boundaries of one or more of the member counties. The area comprising the parks and all property having a situs therein is exempt from all ad valorem taxation. The owners or lessees of any property situated in the park shall pay an amount equivalent to the property taxes or other in-lieu-of payments that would have been due and payable except for the exemption herein provided.

Property Tax Year	Maximum Percentage Depreciation
Before 1997	80 percent
1997	83.3 percent
1998	86.6 percent
After 1998	90 percent.

(B) There is established in the State Treasury a fund separate and distinct from the general fund of the State and all other funds styled The Depreciation Property Tax Reimbursement Fund. Annually, the General Assembly shall appropriate to this fund an amount sufficient to reimburse all local taxing entities the amount of **revenue** not collected as a result of the additional depreciation more than 80 percent allowed for manufacturer’s machinery and equipment pursuant to this section. . . . Reimbursement must be paid from the fund in the manner provided in Section 12-37-270, mutatis mutandis. (Emphasis added.)

Discussion:

S.C. Code Ann. Section 12-37-935(B) provides for reimbursement by the State to “local taxing entities the amount of **revenue** not collected as a result of the additional depreciation of more than eighty percent allowed for manufacturer’s machinery and equipment pursuant to” Section 12-37-935(A). (Emphasis added.) Questions have arisen concerning whether such reimbursement applies to negotiated fee-in-lieu of property taxes and property located in a joint industrial or business park since in neither case is the property subject to a property tax. Rather, the taxpayer pays a fee in lieu of property tax.

In construing statutes, the language used in a statute should be given its plain and ordinary meaning, without resort to subtle or forced construction to limit or expand the statute’s operation. Bryant v. City of Charleston, 295 S.C. 408, 368 S.E.2d 899 (1988); Home Health Serv. v. S.C. Tax Comm’n, 312 S.C. 324, 440 S.E.2d 375 (1994). Where terms of a statute are clear and unambiguous, they must be applied according to their literal meaning. Medlock v. 1985 Ford F-150 Pick Up, 308 S.C. 68, 417 S.E.2d 85 (1992); Green v. Zimmerman, 269 S.C. 535, 238 S.E.2d 323 (1977).

S.C. Code Ann. Section 12-37-930 makes it clear that all machinery and equipment of manufacturers, including machinery and equipment subject to a fee-in-lieu of property tax arrangement or located in a joint industrial or business park are subject to depreciation as provided for in Section 12-37-935(A).

S.C. Code Ann. Section 12-37-935(B) makes it clear that reimbursement under that section is for **revenue** lost as a result of the excess depreciation allowed under Section

12-37-935(A). The reimbursement is not limited to tax monies lost; if it were there would be no reimbursement for the excess depreciation of property subject to a fee-in-lieu of property taxes or for property located in a joint industrial or business park since those properties are exempt from property taxes, although a fee is levied and collected.

Accordingly, we conclude that property under a negotiated fee-in-lieu of property tax arrangement, and property located in a joint industrial or business park are eligible for the state reimbursement for excess depreciation under Section 12-37-935(B).

SOUTH CAROLINA DEPARTMENT OF REVENUE

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

Columbia, South Carolina  
July 8 \_\_\_\_\_, 19 98