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SC TECHNICAL ADVICE MEMORANDUM #90-6

TO: Mr. Marvin N. Davant, Director
Field Services Division

FROM: John P. McCormack, Manager
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DATE: March 7, 1990

SUBJECT: Software - Textbooks
(Sales and Use Tax)

REFERENCE: S.C. Code Section 12-35-550(2)
Regulation 117-174.213

AUTHORITY: S.C. Code Section 12-3-179
SC Revenue Procedure #87-3

SCOPE: A Technical Advice Memorandum is a temporary document issued to an individual within the Commission, upon request, and it applies only to the specific facts or circumstances related in the request. Technical Advice Memoranda have no precedential value and are not intended for general distribution.

Question:

Is software which is used to teach students basic skills, such as math and English, considered a textbook and exempt from sales tax pursuant to Code Section 12-35-550(2)?

Facts:

A school district purchased a type of software called 'Courseware', which is used to teach students various courses. The students can go to work stations and use the software to learn basic skills such as math, English and language arts.

Discussion:

Code Section 12-35-550(2) provides an exemption from the sales tax for "[t]he gross proceeds of the sale of textbooks used in elementary schools, high schools and institutions of higher learning."

Sales Tax Regulation 117-174.213 provides:

The term "textbook" is construed to include only books purchased for and used in elementary schools, high schools and institutions of higher learning. Included within the definition of textbooks are school library books, encyclopedias and dictionaries. Also deemed textbooks when part of a prescribed course of study are workbooks, band and sheet music, plays, filmstrips, transparencies, motion picture films, audio tapes and records, recorded music and periodicals.

Examples of sales subject to the tax are magazine subscriptions, reader guides (this is in connection with magazine subscriptions), test sheets, answer sheets, evaluation criteria, games, albums, pupil cumulative record, guide pamphlets, yearbooks, award certificates, diplomas, writing materials, art supplies, drafting supplies, easels, projectors, projector lamps and bulbs, projector screens and equipment carts or tables, magboards, flannel boards, laboratory supplies and equipment, biological supplies incidental to classroom instruction, athletic equipment, shop supplies and equipment, record players, recorders, computer instructional equipments, manipulated devices, charts, maps (including globes), map stands, raw film, blank tapes, and any and all other items of tangible personal property used in the classroom or office which do not qualify as "textbooks" as hereinabove defined.

The term "textbook" has been expanded in the above regulation to not only include printed matter but also tapes, recordings, and filmstrips when used as "part of a prescribed course of study." The items deemed to be textbooks and subject to the sales tax exemption are those which contain and, in fact, are themselves, educational sources of information. In other words, these items contain the information which is being taught, just as a textbook does.

Excluded from the definition of "textbooks" are peripheral equipment and tools used for extracting the information from the source as well as items which aid in, but are not a required part of, the educational process.

Conclusion:

The software purchased by the school district and used as a required part of a prescribed course of study is deemed to be a textbook and thus qualifies for the exemption provided at Code Section 12-35-550(2).

However, spreadsheet programs, word processing programs, and other computer programs, used in conjunction with a course of study, are not educational information sources, and do not qualify for the exemption.