Introduction

The purpose of this handbook is to assist business owners, employees and others in gaining a better understanding of the sales, use, and admissions tax laws and the impact these taxes may have on their business. We know that understanding your obligations is the first step in complying with tax laws. While we strive to present this manual correctly, it is possible some errors may be found. Furthermore, tax law changes rapidly. The manual is written in general terms for widest possible use. It is intended as a guide only, and the application of its contents to specific situations will depend on the particular circumstances involved. It may not be relied on as a substitute for obtaining professional advice and researching original sources of authority. Nothing in this manual supersedes, alters or otherwise changes provisions of the South Carolina Code, regulations or department rulings.

We would appreciate your suggestions regarding how we can make this seminar and manual more useful for you and your business. Please call Sara Unrue, Taxpayer Education Coordinator, (803)898-5593 or email your comments to TaxpayerEd@sctax.org.

South Carolina Department of Revenue
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Accommodations Tax

General Information

Imposition: A 7% sales tax is imposed upon the gross proceeds from the rentals or charges for sleeping accommodations furnished at any place in which rooms, lodgings, or sleeping accommodations of any kind are furnished, including but not limited to:

- hotels
- motels
- inns
- campgrounds (campground spaces)
- tourist courts
- tourist camps
- condominiums
- residences

In addition, local sales taxes administered and collected by the Department on behalf of local jurisdictions are imposed upon the gross proceeds from the rentals or charges for sleeping accommodations.¹

The sales tax on accommodations does not apply to (1) the lease or rental of accommodations supplied to the same person for a period of 90 continuous days² or (2) the lease or rental of accommodations at a facility consisting of less than six sleeping rooms, contained on the same premises, which is used as the place of abode of the owner or operator of such facilities.

Liability: The person liable for the tax is the person furnishing the accommodations, whether such person is the owner or a real estate agent, listing service, broker or similar entity handling the accommodations. The person liable for the sales tax on accommodations must obtain a retail license and remit the tax to the Department on a monthly basis.

However, persons furnishing accommodations to transients for one week or less in any calendar quarter are not required to obtain a retail license, but are required to remit the tax annually by April 15th of the following calendar year.³

¹ In addition, local governments may impose a local accommodations tax of up to 3%. This is in addition to the statewide sales and accommodations taxes and the local sales taxes administered and collected by the Department (if applicable). This local accommodations tax is collected by the local government imposing the tax, not the Department of Revenue.
² South Carolina Code §12-36-920(A) and SC Regulation 117-307.4.
³ South Carolina Code §12-36-510(B)(3).
The following examples illustrate the person liable for the sales tax on accommodations:

**Owner Rents:** Mr. Smith lives in Greenville, South Carolina and also owns a vacation home in Hilton Head, South Carolina. He uses the vacation home at various times throughout the year, but rents the vacation home on a weekly basis throughout the summer and several other times throughout the year on a weekly basis.\(^4\)

Mr. Smith is required to (1) obtain a retail license and (2) remit the 7% sales tax on accommodations to the Department, plus the applicable local sales and use tax administered and collected by the Department on behalf of Beaufort County, with respect to the gross proceeds he receives from the rental of his vacation home. The tax must be remitted on a monthly basis.\(^5\)

**Listing Service Rents:** Mr. Smith hires XYZ Vacation Rental Company to rent his Hilton Head, South Carolina vacation home on a weekly basis throughout the summer.\(^6\)

XYZ Vacation Rental Company is required to (1) obtain a retail license and (2) remit the 7% sales tax on accommodations to the Department, plus the applicable local sales and use tax administered and collected by the Department on behalf of Beaufort county, with respect to the gross proceeds XYZ Vacation Rental Company receives from the rental of the vacation home. The tax must be remitted on a monthly basis.\(^7\)

**Owner Rents for One Week or Less in Any Calendar Quarter:** Mr. Smith lives in Greenville, South Carolina and also owns a vacation home in Hilton Head, South Carolina. He uses the vacation home throughout the year, but he only rents the vacation home one weekend a year during the Heritage Golf Tournament.

Mr. Smith is not required to obtain a retail license; however, Mr. Smith must remit the 7% sales tax on accommodations to the Department, plus the applicable local sales and use taxes administered and collected by the Department on behalf of Beaufort County, with respect to the gross proceeds he receives from the rental of his vacation home. The tax due must be remitted annually by April 15\(^{th}\) of the following calendar year.

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\(^4\) While it is possible for the same person to rent the vacation home for several consecutive weeks, in this example, all rentals are for less than 90 continuous days.

\(^5\) See also Administrative Law Court decisions #00-ALJ-17-0569-CC (2001) and #96-ALJ-17-0380-CC (1997).

\(^6\) While it is possible for the same person to rent the vacation home for several consecutive weeks, in this example, all rentals are for less than 90 continuous days.

\(^7\) See also Administrative Law Court decisions #00-ALJ-17-0569-CC (2001) and #96-ALJ-17-0380-CC (1997).
Transactions Not Subject to the Sales Tax on Accommodations

The following provides examples of transactions that are not subject to the sales tax on accommodations as a result of (1) exclusions or exemptions provided in federal or state law and (2) transactions that do not fall within the imposition of the sales tax on accommodations. In addition, some examples of exclusions or exemptions also include situations where the tax is applicable to demonstrate the limitations of the exclusion or exemption.

General Exclusions

90 Day Rentals: The lease or rental of accommodations supplied to the same person for a period of 90 continuous days.\(^8\)

5 Sleeping Rooms or Less: The lease or rental of accommodations at a facility consisting of less than six sleeping rooms, contained on the same premises, which is used as the place of abode of the owner or operator of such facilities.\(^9\)

For this exclusion to apply, the facility must serve as the owner’s or operator’s “place of abode” during the same times at which the remaining sleeping rooms are rented to transients and the rooms must not be rented to transients by a person other than the owner or operator using the facility as his or her “place of abode.”\(^{10}\)

The following four examples\(^{11}\) illustrate the application of this exclusion for a facility with 5 or less sleeping rooms:

**Owner Present in Home:** W owns a home with less than six sleeping rooms and lives in the home throughout the year. He operates this home as a “bed and breakfast” by renting the remaining sleeping rooms to vacationers on a daily or weekly basis. W rents these rooms to vacationers himself and does not employ the services of a real estate agent or broker.

The rentals by W of these rooms to vacationers qualify for the exception in the statute; therefore, the rental charges paid to W by the vacationers are not subject to the sales tax on accommodations.

**Owner Not Present in Home:** X owns a home with less than six sleeping rooms and uses the home only for one or two weeks a year for family vacations. She rents the home to vacationers during the

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\(^8\) South Carolina Code §12-36-920(A) and SC Regulation 117-307.4.
\(^9\) South Carolina Code §12-36-920(A).
\(^{10}\) SC Regulation 117-307.3.
\(^{11}\) SC Regulation 117-307.3.
rest of the year on a weekly basis. She rents it herself and does not employ the services of a real estate agent or broker.

The rentals by X of the home to vacationers do not qualify for the exception in the statute; therefore, the rental charges paid to X by the vacationers are subject to the sales tax on accommodations.

**Use of Rental Agency:** Y owns a home with less than six sleeping rooms and lives in the home throughout the year. He operates this home as a “bed and breakfast” by renting the remaining sleeping rooms to vacationers on a daily or weekly basis. However, Y never rents these rooms to vacationers himself. He employs the services of a real estate agent who rents the remaining sleeping rooms for him.

The rentals by the real estate agent of these rooms to vacationers for Y do not qualify for the exception in the statute; therefore, the rental charges paid to the real estate agent by the vacationers are subject to the sales tax on accommodations with the real estate agent liable for the tax.

**Both Rental by Owner and Rental Agency:** Z owns a home with less than six sleeping rooms and lives in the home throughout the year. He operates this home as a “bed and breakfast” by renting the remaining sleeping rooms to vacationers on a daily or weekly basis. He employs the services of a real estate agent who rents the remaining sleeping rooms for him. However, sometimes Z rents these remaining rooms to vacationers himself.

The rentals by the real estate agent of these rooms to vacationers for Z do not qualify for the exception in the statute; therefore, the rental charges paid to the real estate agent by the vacationers are subject to the sales tax on accommodations with the real estate agent liable for the tax.

The occasional rentals by Z of these rooms to vacationers qualify for the exception in the statute; therefore, the rental charges paid to Z by the vacationers are not subject to the sales tax on accommodations.

**Federal Government Agencies**¹²

Charges for hotel and motel accommodations to a federal employee on official government business are exempt from sales tax if the accommodations are purchased directly by the federal government.

Therefore, the sales tax on accommodations is not applicable when:

1. The federal government is billed directly by the retailer;
2. The federal employee pays by government check; or,
3. The federal employee pays by government credit card\(^{13}\) and the federal government is billed directly by the credit card company.

However, charges for hotel and motel accommodations to a federal employee on official government business are subject to the sales tax if the accommodations are purchased by the federal employee, even if the employee is reimbursed for the charges. This includes transactions in which:

1. The federal employee pays by personal check; or,
2. The federal employee pays by credit card,\(^{14}\) is billed directly by the credit card company, and is reimbursed by the federal government.

**American Red Cross**\(^{15}\)

The sale to the American Red Cross is exempt from sales tax if:

1. the American Red Cross is billed directly for the transaction,
2. the American Red Cross employee uses a credit card that is billed directly to the American Red Cross, or
3. the American Red Cross employee pays with an American Red Cross check.

The sale to the American Red Cross employee is subject to sales tax when the employee pays for the charge and is reimbursed by the American Red Cross.

**Foreign Diplomats**

Sales to foreign officials are exempt from the sales tax in accordance with the type of card issued by, and the level of exemption authorized by, the Office of Foreign Mission.\(^{16}\) The exemption is only valid for the person whose photo appears on the card. Vendors may ask to see additional forms of identification, such as diplomatic I.D., or driver's license.

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\(^{13}\) SC Revenue Ruling #09-1.
\(^{14}\) SC Revenue Ruling #09-1.
\(^{15}\) SC Revenue Ruling #09-2.
\(^{16}\) SC Revenue Ruling #09-2.
Federal Credit Unions

The sale to the federal credit union is exempt from sales tax if: (1) the federal credit union is billed directly for the transaction, (2) the federal credit union employee uses a credit card that is billed directly to the federal credit union, or (3) the federal credit union employee pays with a federal credit union check.

The person being furnished accommodations must be an employee of the federal credit union to come within this exemption. For example, if the federal credit union employee works for an association that represents various federal credit unions and the association pays the charges, then the accommodations are taxable since the association is not a federal credit union.

The sale to the federal credit union employee is subject to sales tax when the employee pays for the charge and is reimbursed by the federal credit union. In addition, sales of accommodations to state credit unions are subject to the tax.

Charitable Children’s Hospital

The lease or rental of accommodations to an employee of a charitable hospital predominately serving children exempt from property taxes under Section 12-37-220, where care is provided without charge to the patient as provided in South Carolina Code §12-36-2120(47) is exempt from the sales tax on accommodations if:

1. the qualifying charitable hospital is billed directly for the transaction,
2. the qualifying charitable hospital employee uses a credit card that is billed directly to the hospital, or
3. the nonprofit employee pays for the charge with the hospital’s check.

Marina or Dry Boat Storage Space

The rental of wet slips, by a marina furnishing amenities such as electricity, water, sewage, showers, and cable television, are not subject to the sales tax on accommodations. The rentals of dry storage for boats are not subject to the sales tax on accommodations tax.

17 SC Revenue Ruling #09-2 and SC Attorney General Opinion #S-OAG-59.
18 SC Revenue Ruling #09-2.
19 SC Technical Advice Memorandum #90-5.
Reserved Recreational Vehicle Space at a Raceway

The rental of reserved recreational vehicle parking spaces at a motorsports raceway is not subject to the sales tax on accommodations.

Exchange of Accommodations

The Department has held that accommodations provided under exchange agreements are subject to the sales tax on accommodations. However, the General Assembly subsequently enacted an exemption for “any ... exchange of accommodations in which the accommodations to be exchanged are the primary consideration.”

Therefore, the furnishing of accommodations via an exchange of accommodations is not subject to the sales tax on accommodations if the accommodations to be exchanged is the primary consideration. If the accommodations to be exchanged is not the primary consideration, the furnishing of the accommodations is subject to the sales tax on accommodations, unless otherwise exempt.

Sales Tax on Additional Guest Charges

Code section 12-36-920(B) imposes a 6% sales tax on additional guest charges. The term additional guest charges includes, but is not limited to:

- room service;
- amenities;
- entertainment;
- special items in promotional tourist packages;
- laundering and dry cleaning services;
- in-room movies;
- telephone charges;
- rentals of meeting rooms; and
- other guest services.

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21 SC Revenue Ruling #98-5.
22 South Carolina Code §12-36-2120(31).
Tourist/Golf Packages

The individual items sold within a promotional tourist package may be billed to the customer in one daily total and taxed on their separate characteristics if the charges are reasonable and the books and records clearly identify the components.

Any amount in the tourist package which “flows through” to a third party which provides that service (golf, meals, theater, etc…) will not be taxed by the hotel, but by that service provider. (See Code Section 12-4-320 for more details).

Purchases by hotel/motels of items to be given away to guests, such as golf caps, golf balls, towels, food, etc are taxable at the time of purchase by the hotel/motel. However, if the hotel sells these items in a gift shop, they may purchase these items at wholesale (free of the tax) and collect sales tax on the sales price of such. Items withdrawn from inventory as gifts would be taxable at cost to the hotel/motel at the time of withdrawal.

NOTE: Revenue which was booked to “flow through” should not be reported at the 7% tax rate.

Hurricane Insurance

For a fee paid to the person offering sleeping accommodations, a guest may obtain “hurricane insurance.” This insurance will protect the vacationer against a mandatory evacuation due to a hurricane. Some insurance also offers the vacationer protection resulting from other unforeseen events.

For example, if a vacationer has rented a home for one week beginning on a Saturday and a mandatory evacuation order is issued on Monday, then the insurance will cover the vacationer for the time lost as a result of the evacuation order. In addition, the insurance may also cover circumstances in which the vacationer is not even able to take occupancy of the home and must forego their vacation because of the mandatory evacuation and subsequent damage caused by a hurricane.

If sleeping accommodations are furnished, even if not for the full time originally agreed to, then an optional charge for “hurricane insurance,” as discussed above, is subject to the 6% sales tax as an “additional guest charge.”

However, if the charge for “hurricane insurance” is mandatory, then the charge is subject to the 7% sales tax as a part of the charge for furnishing the sleeping accommodations.

23 SC Revenue Ruling #05-6.
24 South Carolina Code §12-36-920(B).
Note: Sleeping accommodation are "furnished" if the vacationer takes occupancy, or has the right to take occupancy, of a rental unit for any or all of the time previously agreed to when the reservations were made. If a mandatory evacuation order or hurricane causes the complete cancellation of a person’s vacation because law enforcement will not allow anyone to enter the area during the entire time originally reserved for the vacation, or a hurricane destroys the rental unit and the vacationer cannot take occupancy of the unit or any replacement unit during the entire time originally reserved for the vacation, then the sleeping accommodations were not “furnished” and the charges for both the sleeping accommodations and the “hurricane insurance” are not subject to the tax. If the sleeping accommodations are furnished because the vacationer actually takes occupancy, or has the right to take occupancy of a rental unit (but chooses not to), for any or all the time previously agreed to when the reservations were made, then the charges for both the sleeping accommodations and the optional “hurricane insurance” are subject to the tax (sleeping accommodations – 7%; optional “hurricane insurance” – 6%; mandatory “hurricane insurance – 7%)

Cancellations of Accommodations

If a person reserves and pays for sleeping accommodations at a hotel, but does not cancel the reservation or does not cancel the reservation by the prescribed time set by the hotel, the charge for the accommodations retained by the hotel is subject to the tax even though he will not use the sleeping accommodations. While the sleeping accommodations were not used, the person had the right to use such sleeping accommodations. Therefore, the sleeping accommodations were “furnished” and the charge by the hotel for such sleeping accommodations is subject to the tax.

If a person makes reservations with a hotel for sleeping accommodations, but the reservations are canceled by such person or by the hotel, any administrative fee or deposit charged or retained by the hotel as a result of the cancellation is not subject to the tax.

The 1% local option Sales Tax

The 1% local option sales tax applies to accommodations and to additional guest charges. Therefore, the total tax rate on accommodations in a local option tax county is 8% (or 9% if a county imposes several local option sales tax) and the total tax rate on additional guest charges is 7%.

Reporting requirements

Businesses subject to the 7% sales tax on accommodations and/or the 1% local sales tax are to file Form ST-388 with the Department
of Revenue. Those with more than one location are to report the 7% tax and the 1% tax by county and municipality. Use Form ST-389 (Addendum to report the 1% tax by county and municipality and attach it to Form ST-388). Returns are due and taxes payable by the 20th day of the month following the month in which accommodations were rented.

For returns filed timely (with taxes paid), a discount is allowed. The discount is 3% if the total liability on a return (state plus local) is less than $100. The discount is 2% if the total tax amount is $100 or more. The maximum discount allowed in any state fiscal year is $3,000. If returns are filed electronically the discount allowed in any state fiscal year is $3,100.

**Purchases by Hotels and Motels**

Purchases by hotels, motels, etc. of tangible personal property (e.g. beds, sheets, pillows, televisions, plastic cups, toilet paper, etc.) are retail purchases subject to tax. Hotels, motels, etc. use or consume such items in providing accommodations. They do **not** rent or sell such items to their guests. They rent accommodations.

**Administration**

The Department of Revenue oversees the spending of accommodations tax revenues by local accommodations tax committees to ensure the tax money is spent as required by law.

**Local Accommodations Tax**

State law permits local governments to impose a local accommodations tax of up to 3%. This is in addition to the statewide sales and accommodations taxes and the local option sales tax, if applicable. **The local accommodations tax is collected by the local government imposing the tax, not the Department of Revenue.** The frequency of payment of the local accommodations tax is based on the amount of tax owed:

- If the amount of the tax averages more than $50 a month, the tax must be paid monthly.
- If the tax averages $25-$50 a month, the tax must be paid quarterly
- If the tax averages less than $25-$50 a month, the tax must be paid annually
Code Section 12-36-920 imposes a sales tax upon accommodations and "additional guest charges." The term "additional guest charge" means an amount which is added to the guest's room charge for a specific amenity or service for the guest.

Therefore, charges for rooms, lodgings and accommodations are taxed at 7%, while other charges for other services provided at the hotel, when over and above the services customarily provided with the room, are taxed at 6% as an "additional guest charge." However, if an "additional guest charge" would be taxed under other provisions of the sales and use tax law (Chapter 36 of Title 12), then such charges are not taxed as an "additional guest charge."

It should therefore be noted that the determination as to what services, if any, are over and above the services customarily provided with the room must be based on all of the facts and circumstances.

The burden of proof that a charge is an additional guest charge, and not part of the price for the room, rests with the taxpayer. Failure to prove that a particular charge is for a service that is over and above the services customarily provided with the room will subject the charge to the 7% tax rate.

117-307.1-- Examples of the Application of Tax to Various Charges Imposed by Hotels, Motels, and Other Facilities.

The following questions and answers are intended to provide guidance with respect to the provisions of Code Section 12-36-920.

Telephone Charges

1. Q. If a hotel charges $100.00 for a room, and that price includes the room and use of the phone for local calls, what tax rate applies to the $100.00?

   A. The $100.00 charge would be subject to a tax rate of 7%. The use of the phone is a part of the services offered and provided with the room for the $100.00. Therefore, it is not an additional guest charge.

2. Q. If a hotel charges $80.00 per day for a room, and the customer is also charged $5.00 per day for the availability of the phone for local calls, what tax rate applies to each of the charges?

   A. The $80.00 room charge and the $5.00 telephone charge are taxed at 7%. The availability of a phone is a part of the services offered and provided with a room. The
$5.00 is charged whether or not the guest uses the phone. Therefore, it is not an additional guest charge when the charge is based on a per day rate.

3. Q. If a hotel charges $80.00 per day for a room, and the customer is also charged $1.00 per local phone call, what tax rate applies to each of the charges?

   A. The $80.00 room charge is taxed at 7%. Each $1.00 phone charge is taxed at 6%. The availability of a phone is a part of the services offered and provided with a room; however, the use of the phone for a local call is over and above the services customarily provided with the room. Guests expect to pay a charge for each local call made from the room phone. Therefore, the $1.00 is an additional guest charge when the charge is based on a per call basis.

4. Q. If a hotel charges $80.00 for a room, and the customer is also charged $20.00 for various long distance calls made, what tax rate applies to each of the charges?

   A. The $80.00 room charge is taxed at 7%, while the remaining charges for the long distance calls are taxed at 6% as additional guest charges. The Department, in Decision #92-11 held that the charges for long distance telephone calls were not otherwise taxed under Chapter 36 and were therefore taxable as additional guest charges.

Maid Service

5. Q. If a hotel charges $100.00 for a room, and that price includes maid service, what tax rate applies to the $100.00?

   A. The $100.00 charge would be subject to a tax rate of 7%. Since the maid service is a service provided with the room, it is not an additional guest charge.

6. Q. If a hotel charges $80.00 for a room, and the customer also must pay a mandatory $20.00 charge for maid service, which may or may not be separately stated, what tax rate applies to each of the charges?

   A. The $80.00 room charge and the $20.00 maid service charge are taxed at 7%. The maid service is part of the services provided with the room. The fact that it may be separately charged does not necessarily make the charge an additional guest charge. In this case the maid service is mandatory, and therefore, the actual charge for the room is $100.00 which is taxed at 7%.

7. Q. If a rental agency charges $800.00 per week for a condominium unit, and the customer also must pay a mandatory $50.00 charge for maid service at the end of the week, what tax rate applies to each of the charges?

   A. The $800.00 weekly unit charge and the $50.00 maid service charge are taxed at 7%. The maid service is part of the services provided with the unit. The fact that it
may be separately charged does not necessarily make the charge an additional guest charge. The maid service is mandatory, and therefore, the actual charge for the unit is $850.00, which is taxed at 7%.

8. **Q.** If a rental agency charges $800.00 per week for a condominium unit, and the customer is required to leave the unit in a clean condition, what tax rate applies to each of the charges if the customer has the option to have the rental agency clean the unit at the end of the week for $50.00?

   **A.** The $800.00 weekly unit charge is taxed at 7% and the $50.00 maid service charge is taxed at 6%. The $50.00 optional maid service is provided over and above the services provided with the unit. The $50.00 is therefore an additional guest charge subject to the tax at 6%.

9. **Q.** If a rental agency charges $800.00 per week for a condominium unit, a mandatory $50.00 charge for maid service at the end of the week, and the customer has the option to receive daily maid service for $20.00 a day, what tax rate applies to each of the charges?

   **A.** The $800.00 weekly unit charge and the $50.00 maid service charge are taxed at 7%. The maid service is part of the services provided with the unit. The maid service is mandatory, and therefore, the actual charge for the unit is $850.00, which is taxed at 7%. The $20.00 optional maid service is provided over and above the services provided with the unit. The $20.00 is therefore an additional guest charge subject to the tax at 6%.

**In-room Movies**

10. **Q.** If a hotel charges $100.00 for a room, and that price includes the in-room movies at no extra charge, what tax rate applies to the $100.00?

   **A.** The $100.00 charge would be subject to a tax rate of 7%. The availability of in-room movies is a part of the services offered and provided with the room for the $100.00. Therefore, it is not an additional guest charge.

11. **Q.** If a hotel charges $80.00 per day for a room, and the customer is also charged a mandatory fee of $5.00 per day for in-room movies (whether or not the guest watches any movies), what tax rate applies to each of the charges?

   **A.** The $80.00 room charge and the mandatory $5.00 in-room movie charge are taxed at 7%. The availability of in-room movies is a part of the services offered and provided with a room. The $5.00 is charged whether or not the guest watches the movies. Therefore, it is not an additional guest charge when the charge is based on a per day rate and the guest is charged whether or not the movies are watched.
12. **Q.** If a hotel charges $80.00 per day for a room, and the customer is also charged $7.00 for each in-room movie he watched, what tax rate applies to each of the charges?

   **A.** The $80.00 room charge is taxed at 7%. The $7.00 movie charge is taxed at 6%. The availability of in-room movies is a part of the services offered and provided with a room; however, the charge for viewing a movie is over and above the customary charge for the room. Guests expect to pay a charge for each movie viewed. Therefore, the $7.00 is an additional guest charge when the charge is based on a separate charge for watching the movie. The tax on this additional guest charge is the liability of the hotel, regardless of whether or not service is being provided by a third party or the hotel itself.

**Meals**

13. **Q.** If a hotel charges $100.00 for a room, and that price includes a continental breakfast for the guest, what tax rate applies to the $100.00?

   **A.** The $100.00 charge is taxed at 7%. Since the continental breakfast is provided with the room, it is not an additional guest charge. (The withdrawal of the food from the hotel's inventory is subject to the sales tax based on its fair market value. See Code Section 12-36-90 and Code Section 12-36-110.)

14. **Q.** If a hotel charges $100.00 for a room, and also charges the guest a separately stated $20.00 "club" fee, what tax rate applies to each of the charges? (The "club" fee, for that extra $20.00, provides the guest access to a buffet meal that is not available to other guests.)

   **A.** The Department, in Decision #92-32, held that the separately stated charge of $20.00 was not part of the charge for the room but a retail sale of the meal to the guest. Therefore, the charges are taxed as follows: 7% tax applies to the $100.00 charge for the room and 6% tax applies to the $20.00 charge for the meal. The meal is not taxed as an additional guest charge under Code Section 12-36-920(B) since it is otherwise taxed at 6% under Chapter 36--Code Section 12-36-910 and Code Section 12-36-1110.

**Linens**

15. **Q.** If a rental agency charges $800.00 per week for a condominium unit, and the customer has the option to rent linens for $50.00 for the week, what tax rate applies to each of the charges?

   **A.** The $800.00 weekly unit charge is taxed at 7%. The rental of the linens is optional and not part of the services provided with the unit for the $800.00 charge. The $50.00 rental of the linens is not an additional guest charge since the rental
charge for the linens is a sale of tangible personal property and is otherwise taxed at
6% under Chapter 36--Code Section 12-36-910 and Code Section 12-36-1110.

Golf and Other Tourist Packages

16. Q. If a hotel has a "golf package" for $100.00 per night, and the customer is entitled
to a room at the hotel, one round of golf at a golf course at no extra charge, and a
meal at no extra charge, what tax rate applies?

A. The $100 charge would be subject to the 7% tax, except any portion forwarded to
the golf course for payment of the green fee and any portion forwarded to the
restaurant for payment of the meal. However, see the one exception in the "Note" in
Example #1.

The following examples best explain this answer:

- Example #1: The hotel receives $100 from the guest for the golf package. The hotel
  pays the golf course $30 for the guest's green fee and pays the restaurant $5 for
  the guest's meal.

  The hotel would be liable for the 7% tax on $65 ($100 - $35). The golf course would
  be liable for the 5% admissions tax on $30 and the restaurant would be liable for 6%
sales tax on the sale of the meal. This calculation must be made on a guest by guest
basis. In other words, the 7% tax due will be determined for each guest by
multiplying 7% by the total charge for the package less the portion forwarded to the
golf course for payment of the green fee and the portion forwarded to the restaurant
for payment of the meal.

  Note: If the hotel's guest is unable to play golf that day ("No-Show") (but still
  received the meal), and under terms of the golf package the guest will not be
required to pay the "green fee portion" of the package, the hotel would be liable for
the 7% tax on the amount it received from the guest less the amount paid by the
hotel to the restaurant. For example, if the hotel determined that the "green fee
portion" of the $100 package was $30 and required the guest to only pay $70 for that
day, then the hotel would be liable for the 7% tax on $65 and the restaurant would
be liable the 6% sales tax on the sale of meal.

  If the hotel's guest is unable to play golf that day ("No-Show") (but still received the
meal), and under terms of the golf package the guest must still pay the hotel the full
$100, the hotel would be liable for the 7% tax on the "accommodations portion" of
the package. The golf course would not be liable for the 5% admissions tax since the
guest did not play golf and the golf course did not receive an admissions fee from
the hotel. However, the hotel is liable for the 6% tax on the other portion of the $100
paid by the guest since it now represents an additional guest charge for the service
of making the golf arrangements that were not used. This additional guest charge
will be equal to the green fee that the hotel would have had to pay to the golf course.
In other words, if the hotel would have been required to pay $30 had the guest played golf, then the additional guest charge would be $30. As such, the hotel would be liable for the 7% tax on $65 and the 6% tax (as an additional guest charge for the service) on $30 and the restaurant would be liable for the 6% sales tax on the sale of the meal.

- **Example #2:** The hotel receives $100 from the guest for the golf package. The hotel pays the restaurant $5 for the guest's meal. The hotel has an agreement with the golf course to pay the golf course $30 for the guest's green fee. When a guest does play golf, the hotel pays the $30; however, the hotel will receive money back from the golf course at a later date to help pay for the hotel's advertisements of its golf packages.

  The hotel would be liable for the 7% tax on $65 ($100 - $35). The golf course would be liable for the 5% admissions tax on $30 and the restaurant would be liable for the 6% sales tax on the sale of the meal. The fact that the hotel will receive a portion of the money back in the future does not affect the taxation of the charges. It is merely an expense of the golf course that is paid to the hotel.

*Notes:* 1. To ensure the 7% tax is not circumvented by sending most of the package charge to the golf course and then later having a large portion of it returned to the hotel as "advertising," the amount paid to the golf course and returned to the hotel to pay for advertising must be reasonable and supported by the books and records of both taxpayers. Otherwise, the Department will assess taxes according to a reasonable breakdown of room charges, green fees, and meal charges.

  2. Other tourist packages, such as tennis, honeymoon, and entertainment packages, handled in a similar manner would be taxed in the manner described above for golf packages.

**Bike Rentals**

17. **Q.** If a hotel charges $100.00 per night for a room, and the customer has the option to rent a bike to travel around the resort area for $10.00 a day, what tax rate applies to each of the charges?

   **A.** The $100.00 hotel charge is taxed at 7%. The rental of the bike is optional and not part of the services provided with the room for the $100.00 charge. The $10.00 is not an additional guest charge since the rental charge for the bike is a sale of tangible personal property and is otherwise taxed at 6% under Chapter 36.

18. **Q.** If a hotel charges $100.00 per night for a room, and the hotel allows the guest to reserve a bike at no extra charge to travel around the resort, what tax rate applies to the charge?
**Newspapers**

19. **Q.** If a hotel charges $80.00 for a room, and the guest receives a newspaper that is delivered to the guest’s door in the morning, what tax rate applies to the charge?

   **A.** The $80.00 room charge is taxed at 7%. The newspaper is not an additional guest charge since the newspaper is part of the services provided with the room for the $80.00 charge.

20. **Q.** If a hotel charges $80.00 for a room, and the customer is charged $2.00 for a newspaper that is delivered at the guest’s request, what tax rate applies to each of the charges?

   **A.** The $80.00 room charge is taxed at 7%, while the charge for the newspaper, as an additional guest charge, is taxed at 6%. The newspaper that is provided for $2.00 is over and above the services customarily provided with the room at the hotel.

**Valet Parking**

21. **Q.** If a hotel charges $80.00 for a room, and there is no additional charge to the customer for valet parking, what tax rate applies to the charge?

   **A.** The $80.00 room charge is taxed at 7%.

22. **Q.** If a hotel charges $80.00 for a room, and the customer is also charged $15.00 for valet parking, what tax rate applies to each of the charges?

   **A.** The $80.00 room charge is taxed at 7%, while the $15.00 charge for the valet parking, as an additional guest charge, is taxed at 6%.

23. **Q.** If a person is not a guest at a hotel, but is attending an event at the hotel, is a $15.00 charge for valet parking subject to the tax as an additional guest charge?

   **A.** The $15.00 charge for valet parking is not subject to the sales tax. It is not an additional guest charge since, in order to be taxable, the charge must be in addition to a room rental charge. This charge is not in addition to another charge.

**Meeting Rooms**

24. **Q.** If a hotel charges $80.00 for a guest room, and there is no additional charge to the customer for the use of a meeting room, what tax rate applies to the charge?
A. The $80.00 guest room charge is taxed at 7%.

25. Q. If a hotel charges $80.00 for a guest room, and the customer is also charged $35.00 for the use of a meeting room, what tax rate applies to each of the charges?

A. The $80.00 guest room charge is taxed at 7%, while the $35.00 charge for the meeting room, as an additional guest charge, is taxed at 6%.

26. Q. Is a $35.00 charge for the use of the meeting room by a person who is not a guest at the hotel, subject to the tax as an additional guest charge?

A. The $35.00 charge for the meeting room is not subject to the sales tax. It is not an additional guest charge since, in order to be taxable, the charge must be in addition to a room rental charge.

This charge is not in addition to another charge.

Note: If the meeting room is being rented by an organization that is conducting a seminar, workshop, conference, or similar meeting at the hotel, the charge for the meeting room is taxed at 6% as an additional guest charge if the organization is also renting guest rooms at the hotel for officers or members of the organization, invited speakers, or others.

Other Services

27. Q. If a hotel charges $100.00 for a room, and the room contains a refreshment bar so the guest may avail himself of alcoholic drinks, non-alcoholic drinks, or snacks at no extra cost, what tax rate applies to the $100.00?

A. The $100.00 room charge is taxed at 7%.

28. Q. If a hotel charges $80.00 for a room, and the room contains a refreshment bar so the guest may avail himself of alcoholic drinks, non-alcoholic drinks, or snacks at a set price per item, what tax rate applies to each of the charges?

A. The $80.00 room charge is taxed at 7%, while the charges for each item the guest consumes from the refreshment bar is taxed at a rate of 6% as a sale of tangible personal property under Code Section 12-36-910 and Code Section 12-36-1110. These charges are not additional guest charges since they are "otherwise taxed" under Chapter 36.

Cancellations

29. Q. If a person reserves and pays for sleeping accommodations at a hotel, but does not cancel the reservation or does not cancel the reservation by the prescribed time
set by the hotel, is the charge for the accommodations retained by the hotel subject to the tax even though he will not use the sleeping accommodations?

A. While the sleeping accommodations were not used, the person had the right to use such sleeping accommodations. Therefore, the sleeping accommodations were "furnished" and the charge by the hotel for such sleeping accommodations is subject to the tax. See Question #30 for information concerning when accommodations are canceled but an administrative fee or deposit is charged or retained.

30. Q. If a person makes reservations with a hotel for sleeping accommodations, but the reservations are canceled by such person or by the hotel, is an administrative fee or deposit charged or retained by the hotel as a result of the cancellation subject to the tax?

A. An administrative fee or deposit retained or charged by a hotel when reservations for sleeping accommodations are canceled is not subject to the sales tax.

Note: See Question #29 for information concerning when accommodations are canceled or otherwise not used but a charge for the sleeping accommodations is made or retained by the hotel. See also Question #16, Example #1 Note, for the taxation of a tourist package when sleeping accommodations are furnished but the guest does not use a portion of the package (i.e. the guest pays for a golf package but does not play golf).

Note: This regulation references tax rates of 7% for the sales tax on accommodations, 6% for the sales tax on additional guest charges, and 6% for the sales tax on sales or rentals of tangible personal property. Counties may now impose several types of local option sales and use taxes as well as other local taxes imposed upon the furnishing of accommodations and the sale of prepared meals. Some of these taxes are collected by the Department of Revenue on behalf of the county imposing the tax and others are collected by the county itself.

117-307.2-- Purchases by Hotels, Motels and Other Facilities.

Hotels, lodging houses, apartment houses, tourist camps and the like are subject to the sales or use tax, whichever may apply at the time of purchase for use or consumption of beds, bedding, carpets, shades, curtains, linens, uniforms, supplies, fuel for heating and cooking, air conditioning equipment, etc.

117-307.3-- Certain Facilities Not Subject to the Tax.

A. The tax applies to the gross proceeds from the rental or charges for any rooms, lodgings or accommodations furnished to transients by any hotel, inn, tourists court, motel, residence, or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration, except where such facilities consist of less than six sleeping rooms, contained on the same
premises, which is used as the place of abode of the owner or operator of such facilities. For this exception to apply, the facility must serve as the owner's or operator's "place of abode" during the same times at which the remaining sleeping rooms are rented to transients and the rooms must not be rented to transients by a person other than the owner or operator using the facility as his or her "place of abode." See subsection C below.

Examples illustrate some of the situations as to when the exception applies or does not apply to an individual renting sleeping accommodation at a home with less than six sleeping rooms to a transient for less than 90 continuous days (See subsection B below).

1) W owns a home with less than six sleeping rooms and lives in the home throughout the year. He operates this home as a "bed and breakfast" by renting the remaining sleeping rooms to vacationers on a daily or weekly basis. W rents these rooms to vacationers himself and does not employ the services of a real estate agent or broker.

The rentals by W of these rooms to vacationers qualify for the exception in the statute; therefore, the rental charges paid to W by the vacationers are not subject to the sales tax on accommodations under Code Section 12-36-920.

2) X owns a home with less than six sleeping rooms and uses the home only for one or two weeks a year for family vacations. She rents the home to vacationers during the rest of the year on a weekly basis. She rents it herself and does not employ the services of a real estate agent or broker.

The rentals by X of the home to vacationers do not qualify for the exception in the statute; therefore, the rental charges paid to X by the vacationers are subject to the sales tax on accommodations under Code Section 12-36-920.

3) Y owns a home with less than six sleeping rooms and lives in the home throughout the year. He operates this home as a "bed and breakfast" by renting the remaining sleeping rooms to vacationers on a daily or weekly basis. However, Y never rents these rooms to vacationers himself. He employs the services of a real estate agent who rents the remaining sleeping rooms for him.

The rentals by the real estate agent of these rooms to vacationers for Y do not qualify for the exception in the statute; therefore, the rental charges paid to the real estate agent by the vacationers are subject to the sales tax on accommodations under Code Section 12-36-920 with the real estate agent liable for the tax.
4) Z owns a home with less than six sleeping rooms and lives in the home throughout the year. He operates this home as a "bed and breakfast" by renting the remaining sleeping rooms to vacationers on a daily or weekly basis. He employs the services of a real estate agent who rents the remaining sleeping rooms for him. However, sometimes Z rents these remaining rooms to vacationers himself.

The rentals by the real estate agent of these rooms to vacationers for Z do not qualify for the exception in the statute; therefore, the rental charges paid to the real estate agent by the vacationers are subject to the sales tax on accommodations under Code Section 12-36-920 with the real estate agent liable for the tax.

The occasional rentals by Z of these rooms to vacationers qualify for the exception in the statute; therefore, the rental charges paid to Z by the vacationers are not subject to the sales tax on accommodations under Code Section 12-36-920.

B. The gross proceeds derived from the lease or rental of accommodations supplied to the same person for a period of 90 continuous days shall not be considered proceeds from transient.

C. Real estate agents, brokers, corporations or listing services leasing or renting accommodations, whether owned by them or others, to persons for periods of less than 90 continuous days are retailers liable for the sales tax on accommodations.

117-307.4--Rentals in Excess of Ninety Days Not Subject to the Tax--Airlines, Bus Companies, Etc.

A business, usually an airline, bus company or railroad, will reserve a certain number of rooms in a hotel for use by its personnel. Usually the hotel is guaranteed a certain minimum occupancy. The hotel is paid for the number of rooms that are occupied and would not necessarily furnish the same rooms each time. Such proceeds derived from the rentals of the accommodations supplied would be subject to the sales tax.

A business rents from a hotel certain specific rooms on a continuing basis. These rooms are occupied by authorized personnel of the corporation, on a daily basis. The hotel is paid for the specific number of rooms that are rented, whether they are used or not.

Transactions of this nature would not be subject to the tax if the contract remains in force for a time in excess of 90 continuous days.
117-307.5-- Certain Exchanges of Accommodations Exempt from the Tax.

Code Section 12-36-2120(31) exempts from the sales tax on accommodations the gross proceeds accruing or proceeding from "vacation time sharing plans, vacation multiple ownership interests, and exchanges of interests in vacation time sharing plans and vacation multiple ownership interests as provided by Chapter 32 of Title 27, and any other exchange of accommodations in which the accommodations to be exchanged are the primary consideration."

117-307.6-- Accommodations Furnished to the Federal Government or Federal Government Employees.

Charges for hotel and motel accommodations to a federal employee on official government business are exempt from sales tax pursuant to Code Section 12-36-2120 if the accommodations are purchased directly by the federal government.

Therefore, the 7% sales tax on accommodations in not applicable when:

1) The federal government is billed directly by the retailer;
2) The federal employee pays by government check; or,
3) The federal employee pays by government credit card and the federal government is billed directly by the credit card company.

Charges for hotel and motel accommodations to a federal employee on official government business are subject to the sales tax if the accommodations are purchased by the federal employee, even if the employee is reimbursed for the charges. This includes transactions in which:

1) The federal employee pays by personal check; or,
2) The federal employee pays by credit card, is billed directly by the credit card company, and is reimbursed by the federal government.

NOTE: The presentation by a federal employee of a tax exemption certificate issued by the federal government is not sufficient to exempt the transaction from the tax. In order to be tax exempt, a transaction involving a tax exemption certificate must also meet one of the above requirements.
SC REVENUE RULING #91-3

SUBJECT: Laundry and Dry Cleaning (Valet) Services Provided to Hotel Guests (Sales Tax)

TAX MANAGER: Jerry Knight

EFFECTIVE DATE: May 1, 1990

SUPERSEDES: SC Information Letter #89-25 and all previous documents and any oral directives in conflict herewith.

S.C. Code Ann. Section 12-36-920(A) (Effective July 1, 1990)
S.C. Code Ann. Section 12-36-920(B) (Effective July 1, 1990)

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.

Questions:

1. Are charges billed by laundries and dry cleaners to hotels for services provided to the hotels' guests subject to the sales tax, pursuant to Code Section 12-36-910(B)(1)?

2. When hotels bill their guests for laundering and dry cleaning ("valet") services, are such charges subject to the sales tax?

3. If the answer to question #2 is "yes", what is the appropriate tax rate - 5% or 7%?

Facts:

Many hotels contract with independent laundries and dry cleaning establishments to clean their guests' clothing. These services are commonly referred to as "valet services".
Typically, the guests will place their clothing in a bag to be picked up by a hotel employee. The hotel then delivers the clothing to the laundry or dry cleaners (hereafter referred to as "cleaners"). The hotel, on receipt of the clean clothing, or on a periodic basis, will pay the cleaners for its services. The hotel, in turn, bills its guests for the services. The amount billed by the hotel may only be that charged by the cleaners, or may include an additional charge for providing the service.

Discussion:

Laundering and dry cleaning services are taxed at Code Section 12-36-910(B)(1), which reads, in part:

The sales tax also applies to the gross proceeds accruing or proceeding from the business of providing any laundering [or] dry cleaning...service...

S.C. Code Section 12-36-920(A) reads, in part:

A sales tax equal to seven percent is imposed on the gross proceeds derived from the rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients....for a consideration.

* * * *

The tax imposed by this subsection (A) does not apply to additional guest charges as defined in subsection (B).

As a result of recodification and a May 1, 1990 amendment, Code Section 12-36-920(B) reads:

A sales tax of five percent is imposed on additional guest charges at any place where rooms, lodgings, or accommodations are furnished to transients for a consideration, unless otherwise taxed under this chapter. The term "additional guest charges" includes, but is not limited to:

(a) room service;
(b) amenities;
(c) entertainment;
(d) special items in promotional tourist packages;
(e) laundering and dry cleaning services;
(f) in-room movies;
(g) telephone charges;
(h) rentals of meeting rooms; and
(i) other guest charges. (emphasis added)
Prior to the May 1st amendment, only "meals and other special items in promotional tourist packages or the rental of meeting rooms" were taxed at the 5% rate. Other gross proceeds derived from the rental or charges for accommodations were taxed at 7%.

Before addressing the specific questions at hand, it is helpful to discuss applicability of the sales and use taxes to cleaners and hotels, in general.

Code Section 12-36-910(A) imposes the sales tax "upon every person engaged or continuing within this State in the business of selling tangible personal property at retail". By definition (Code Section 12-36-60), "laundry and related services" are tangible personal property; and, Code Section 12-36-70 defines the term "retailer", in part, as "every person furnishing accommodations to transients for a consideration" and, as "every person operating a laundry [or] cleaning establishment for a consideration".

The terms "sale at retail" and "retail sale" are defined at Code Section 12-36-110, in part, as "all sales of tangible personal property except those defined in this article as wholesale sales". The term "wholesale sale" is defined at Code Section 12-36-120, in part, as "a sale of tangible personal property to licensed retail merchants...for resale, and do not include sales to users or consumers".

In summary, sales to the end user or consumer are subject to the sales tax (retail); whereas sales of items for subsequent resale (wholesale) are not subject to taxation.

Regulation 117-174.101 pertains to the applicability of the sales and use taxes to hotels and reads, in part:

Hotels, lodging houses, apartment houses, tourist camps and the like are subject to the sales or use tax, whichever may apply at the time of purchase for use or consumption of beds, bedding, carpets, shades, curtains, linens, uniforms, supplies, fuel for heating and cooking, air conditioning equipment, etc.

In other words, hotels sell a service (accommodations) subject to the sales tax and, in so doing, are also users or consumers of tangible personal property purchased by them which is used in providing the accommodations. Such purchases, by definition, are retail transactions subject to the sales or use tax.

As for the first question (sales by cleaners to hotels), it must be determined if the laundering and dry cleaning services are being used by the hotel in providing its services (accommodations) or whether the hotel is purchasing the laundering and dry cleaning services for resale to its guests, as a separate and distinct service from that of providing the rooms or sleeping accommodations.

If it is determined that the hotel sells, or rents, the laundering and dry cleaning services simultaneously with, and as an integral part of, the rooms, then such services are being used or consumed by the hotel and are subject to the tax as retail sales of tangible personal property from the cleaners to the hotel.
However, if the laundering and dry cleaning services are provided (sold) by the hotels independently of the rooms, then such services are not part of the accommodation services and are, therefore, sales for resale to the hotel, which are not subject to the tax.

A review of the aforementioned Regulation 117-174.101 and pertinent case law [Hotels Statler Co., Inc. v. District of Columbia, 91 U.S. App. D.C. 122, F.2d 172; Atlanta Americana Motor Hotel Corp. v. Undercofler, 149 S.E.2d 691 (1966); and Kentucky Board of Tax Appeals v. Brown Hotel Company, 528 S.W.2d 715 (1975)] reveals only those items which are physically contained in, or an integral part of, the rooms (e.g. beds, linens, tables, paper products, telephone services, electricity, etc.) are used or consumed by the hotels in providing accommodations. Likewise, items such as lobby furniture, restaurant equipment, cash registers, office supplies and cleaning supplies are used or consumed by hotels. As valet services are merely made available to the guests as an adjunct to the hotel's primary business (the providing of rooms), they are not part of the room being rented. Therefore, sales to hotels of laundering and dry cleaning services are not sales at retail. The transactions between the cleaners and hotels are wholesale transactions and th subsequent transactions between the hotels and their guests (valet services) are retail transactions subject to taxation.

Having established that sales of the valet services between the hotels and their guests are retail sales subject to taxation, we may look to the statute to determine whether such sales are taxable at 5% or 7%.

Again, quoting from Code Section 12-36-920(B), "[a] sales tax of five percent is imposed on additional guest charges at any place where rooms, lodgings, or accommodations are furnished....The term 'additional guest charges' includes....laundering and dry cleaning services".

Conclusions:

1. Sales by laundries and dry cleaners of their services to hotels for the hotels' guests are not subject to the sales tax. Such sales are wholesale sales (sales for resale).

   NOTE: Charges by laundries and dry cleaners to hotels for cleaning the sheets, pillow cases, linens, etc. of the hotel are subject to the sales tax, as such services are used or consumed by the hotel.

2. Sales of laundering and dry cleaning services ("valet services") by hotels to their guests are subject to the sales tax.

3. Charges for valet services by hotels to their guests are taxable at 5%, pursuant to Code Section 12-36-920(B).

NOTE: Prior to issuance of this document, Commission policy was to tax the transactions between the cleaners and the hotels and not to tax the charges by the hotels to their guests for
valet services. (See Commission Decision dated October 22, 1987.) Therefore, those taxpayers following past policy for the period May 1, 1990 through April 30, 1991 will not be assessed for any taxes which may be due as a result of following that policy.

SOUTH CAROLINA TAX COMMISSION

s/S. Hunter Howard Jr.  
S. Hunter Howard, Jr., Chairman

s/A. Crawford Clarkson Jr.  
A. Crawford Clarkson, Jr., Commissioner

s/T. R. McConnell  
T. R. McConnell, Commissioner

Columbia, South Carolina  
February 13, 1991
SC REVENUE RULING 95-6 (TAX)

SUBJECT: Purchases by Restaurants
Sales and Use Tax)

EFFECTIVE DATE: Applies to all periods open under statute.

SUPERSEDES: SC Revenue Ruling #92-3

Regulation 117-174.79

SC Revenue Procedure #94-1

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: What guidelines can the Department provide that will assist restaurants in determining their sales and use tax liability on purchases of tangible personal property?

Conclusion:

The Department provides the following guidelines with respect to the sales and use taxes on purchases by restaurants ("NT" - Not Taxable, "T" - Taxable):

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<tr>
<th>Item</th>
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<tbody>
<tr>
<td>Aluminum Foil</td>
<td>*</td>
<td>Bibs</td>
<td>T</td>
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<tr>
<td>Beverage Ingredients</td>
<td>NT</td>
<td>Cleaning Supplies</td>
<td>T</td>
</tr>
<tr>
<td>Coasters</td>
<td>T</td>
<td>Paper Buckets or Pails</td>
<td>*</td>
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<tr>
<td>Coffee Stirrers</td>
<td>T</td>
<td>Paper or Plastic Bags</td>
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<tr>
<td>Cooking Equipment</td>
<td>T</td>
<td>Place Mats</td>
<td>T</td>
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<tr>
<td>Cooking Oil</td>
<td>+</td>
<td>Plates (disposable or reusable)</td>
<td>NT</td>
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<tr>
<td>Cooking Utensils</td>
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<td>Serving Utensils</td>
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<tr>
<td>Condiments</td>
<td>NT</td>
<td>Shortening</td>
<td>+</td>
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</table>
Cups & Lids NT Skewers T
Drinking Glasses NT Steak Markers T
Food Containers & Wraps * Table Covers T
Food Products & Ingredients NT Tissue Paper *
Forks, Knives & Spoons T Toothpicks T
Furniture & Fixtures T Towels (paper or cloth) T
Guest Checks T Tray Liners T
Napkins T Trays T
Office Supplies T Uniforms T
Waxed Paper *

* - Materials and containers used incident to the sale and delivery of food and drink products are not taxable; however, materials and containers used for other purposes are taxable (e.g. storage containers).

+ - These items are not taxable only when used as an ingredient in the food products being sold.

NOTE: Other items are to be considered on a case-by-case basis.

Facts:

Advice has been requested by restaurants with regard to their sales and use tax liability on purchases of tangible personal property. In addition to selling food and beverage products, many restaurants provide their customers with napkins, straws, utensils, condiments (salt, pepper, ketchup, etc.) and other ancillary items, which facilitate the consumption of the food or beverage products. Most restaurants make these items readily accessible to their customers for self service (e.g. placing individual serving size packages of condiments or plastic utensils on counters for use with the food products at the customer's discretion) and others attempt to regulate or limit the quantity of such items available to customers by providing them only upon request or including them in the food or beverage package transferred to the customer. Also, restaurants use a variety of containers, packaging materials, and supplies in their business of selling food and beverage products.

Discussion:

Pursuant to Code Section 12-36-910(A):

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. (Emphasis added.)

In accordance with Code Section 12-36-1310(A):

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. (Emphasis added.)
The terms "sale at retail" and "retail sale" are defined at Code Section 12-36-110, in part, as "all sales of tangible personal property except those defined as wholesale sales". Further, the terms are defined to include (with certain exceptions) the withdrawal, use, or consumption of tangible personal property by anyone who purchases it at wholesale.

Code Section 12-36-120 provides, in pertinent part:

"Wholesale sale" and "sale at wholesale" mean a sale of:

(1) tangible personal property to licensed retail merchants, jobbers, dealers, or wholesalers for resale, and do not include sales to users or consumers;

* * * *

(4) materials, containers, cores, labels, sacks, or bags, used incident to the sale and delivery of tangible personal property.

Code Section 12-36-2120(14) exempts from the sales and use taxes sales or purchases of:

wrapping paper, wrapping twine, paper bags, and containers, used incident to the sale and delivery of tangible personal property.

In summary, in order for either the sales or use tax to apply, there must be a retail sale of tangible personal property. Sales of tangible personal property to users or consumers are retail sales subject to tax. Sales of tangible personal property to licensed retailers for resale and sales of materials, containers, sacks or bags used incident to the sale and delivery of tangible personal property are not taxable.

In considering this issue, it must be determined whether tangible personal property is used or consumed by restaurants, purchased for resale, or used incident to the sale and delivery of the restaurants' food and beverage products.

Regulation 117-174.79, provides guidance and reads:

Licensed retailers purchase free of sales or use taxes wrapping paper, wrapping twine, paper bags and containers for use incident to the delivery of tangible personal property sold by them. They also purchase tax-free materials used in packaging personal property sold by them. They also purchase tax-free materials used in packaging tangible personal property for shipment or sale.

The list below while illustrative of items falling within the Rule announced above is not exhaustive:

Souffle cups, butter chips, paper cups, paper plates, boxes and crates and glazed tissue used to package articles of food.
It will be seen that items such as straws, napkins, wooden or paper spoons and forks do not meet the requirements outlined above and, hence, must bear the tax. Such items are rather in the nature of supplies used or consumed by the retailer in the operation of his or its business.

Hence, purchases of tangible personal property for resale and purchases of materials, containers, cores, labels, sacks, or bags used incident to the sale and delivery of tangible personal property are not subject to the sales or use taxes. Purchases of straws, napkins, and utensils are made at retail and are, therefore, subject to tax.

Commission Decision #95-11 upheld the taxation of utensils, napkins, straws, and tray liners purchased by a restaurant but also addressed the taxation of cooking oil and shortening. In this case the cooking oil and shortening were used for frying food products for sale; however, the shortening was also used as an ingredient to make biscuits. When used for frying, in excess of 70% of the cooking oil and shortening was used or consumed in the process. Thus, the Commission held that the cooking oil and shortening were not subject to tax. The Commission stated that:

The cooking oil and shortening are absorbed by the food. The cooking oil is used as a part of the food being sold. Just as flour, salt or spices become a part of the food item during preparation, the cooking oil and shortening become a part of the food during the cooking portion of the preparation. The Department's established view is that restaurants are making purchases at wholesale when they purchase ingredients of food products sold to customers. We find and conclude the cooking oil and shortening are ingredients of the food products sold, and thus such purchases are made at wholesale and are nontaxable.

For questions concerning the taxation of products purchased by restaurants, contact Steve Hallman at (803) 737-4433 or John McCormack at (803) 737-4438.

SOUTH CAROLINA DEPARTMENT OF REVENUE

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

Columbia, South Carolina
June 5, 1995
SC REVENUE RULING #97-20 (TAX)

SUBJECT: Local Fees and Taxes
(Sales Tax)

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

SUPERSEDES: SC Revenue Ruling #96-8


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:

Are the following local fees and taxes includable in "gross proceeds of sales" and subject to the state sales tax?

(1) local accommodations taxes authorized under Code Section 6-1-500 et. seq. These are taxes derived from the rental or charges for accommodations furnished to transients and are collected by the local governments (municipalities or counties) imposing the tax.

(2) local hospitality taxes authorized under Code Section 6-1-700 et. seq. These are taxes on the sales of prepared meals and beverages and are collected by the local governments (municipalities or counties) imposing the tax.

(3) local option sales taxes authorized under Code Section 4-10-10 et. seq. These taxes are general sales taxes on all sales at retail (with a few exceptions) taxable under the state sales tax. These taxes are imposed specifically to reduce the property tax burden on persons in the counties that impose this type of local tax and are collected by the Department of Revenue on behalf of these counties.
(4) local capital projects sales taxes authorized under Code Section 4-10-300 et. seq. These taxes are general sales taxes on all sales at retail (with a few exceptions) taxable under the state sales tax. These taxes are imposed specifically to defray the debt service on bonds issued for various capital projects in the counties that impose this type of local tax and are collected by the Department of Revenue on behalf of these counties.

(5) local transportation projects sales taxes authorized under Code Section 4-37-30 et. seq. These taxes are general sales taxes on all sales at retail (with a few exceptions) taxable under the state sales tax. These taxes are imposed specifically to defray the debt service on bonds issued for various transportation projects in the counties that impose this type of local tax and are collected by the Department of Revenue on behalf of these counties.

(6) local accommodations fees imposed by ordinance prior to March 15, 1997 and authorized under Section 10 of Act 138 of 1997. These are fees derived from the rental or charges for accommodations furnished to transients and are collected by the local government imposing the fee.

Conclusions:

The following local fees and taxes are includable in "gross proceeds of sales" and subject to the state sales tax if the fee or tax is imposed upon the retailer:

(1) local hospitality taxes authorized under code section 6-1-700 et. seq.; and,

(2) local accommodations fees imposed by ordinance prior to March 15, 1997 and authorized under Section 10 of Act 138 of 1997.

The following local fees and taxes are not includable in "gross proceeds of sales" and not subject to the state sales tax if the fee or tax is imposed upon the customer and the retailer is merely a collection agent for the city or county:

(1) local hospitality taxes authorized under code section 6-1-700 et. seq.; and,

(2) local accommodations fees imposed by ordinance prior to March 15, 1997 and authorized under Section 10 of Act 138 of 1997.

The following local fees and taxes are not includable in "gross proceeds of sales" and not subject to the state sales tax, whether the fee or tax is imposed on the retailer or the customer:

(1) local accommodations taxes authorized under Code Section 6-1-500 et. seq.;

(2) local option sales taxes authorized under Code Section 4-10-10 et. seq.;

(3) local capital projects sales taxes authorized under Code Section 4-10-300 et. seq.; and,
local transportation projects sales taxes authorized under Code Section 4-37-30 et. seq.

Facts:

Cities and counties are now imposing fees and taxes upon businesses that sell food and beverages or furnish sleeping accommodations for a fee. These fees and taxes are generally calculated as a percentage of the gross proceeds of sales of the foods and beverages or gross proceeds derived from accommodations. Such businesses are usually required to collect these fees or taxes from their customers, but are still required to remit the fees or taxes to the city or county if they fail to collect it from their customers.

Counties are also imposing various types of local general sales and use taxes. These taxes are collected by the Department of Revenue on behalf of the counties imposing these taxes.

Questions have arisen as to whether these fees or taxes are includable in the gross proceeds of sales and, therefore, subject to the state sales tax.

Discussion:

Code Section 12-36-910 imposes "a sales tax, equal to five percent of gross proceeds of sales, upon every person engaged ... within this State in the business of selling tangible personal property at retail." (Emphasis added.)

Code Section 12-36-920(A) imposes "a sales tax equal to seven percent on the gross proceeds derived from rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodgings, or sleeping accommodations are furnished to transients for a consideration." (Emphasis added.)

Code Section 12-36-90 defines "gross proceeds" and reads, in part:

Gross proceeds of sales, or any similar term, means the value proceeding or accruing from the sale, lease, or rental of tangible personal property.

(1) The term includes:

* * * *

(b) the proceeds from the sale of tangible personal property without any deduction for:

(i) the cost of goods sold;

(ii) the cost of materials, labor, or service;

(iii) interest paid;

(iv) losses;
(v) transportation costs;
(vi) manufacturers or importers excise taxes imposed by the United States; or
(vii) any other expenses.

In Meyers Arnold v. South Carolina Tax Commission, 285 S.C. 303, 328 S.E. 2d. 920 (1985), the Court of Appeals, in interpreting the definition of "gross proceeds of sales" with respect to lay away fees paid in conjunction with lay away sales, held:

Section 12-35-30 [now Section 12-36-90] defines gross proceeds of sales as "the value proceeding or accruing from the sale of tangible personal property ... without any deduction for service costs." But for the lay away sales, Meyers Arnold would not receive the lay away fees. The fees are obviously rendered in making lay away sales. For these reasons, this court holds the lay away fees are part of the gross proceeds of sales and subject to the sales tax.

The Commissioners, in Decision S-D-174, held a property damage waiver fee charged by a person engaged in the business of renting tangible personal property was subject to the sales tax. The Commission, in citing Meyers Arnold v. South Carolina Tax Commission, supra, stated:

Just as in Meyers Arnold, supra, the service fee here is taxable. But for the lease of tangible personal property, the taxpayer would not have received the fee. The fee is obviously charged for the additional service of providing a lease of property free from liability for damage. In the absence of such service, the lessee, under the taxpayer's lease agreements, would be "liable for any loss, theft, damage or destruction of leased property."
We find and conclude the fee for the property damage waiver is part of gross proceeds of sale subject to tax.

In Decision S-D-127, the Commissioners held that "the amount in a lease contract equal to ad valorem taxes which is paid annually by the lessee to the lessor is includable in gross proceeds of sales."

Finally, the following additional issues must be considered when determining if local fees and taxes are includable in “gross proceeds of sales” for purposes of the state sales tax:

1. Is the local government fee or tax imposed on the retailer or the consumer?

2. Is the fee or tax, by state law, administered in the same manner as the state sales and use tax?

With respect to the first issue, a distinction must be made between local fees or taxes that are imposed upon the retailer and local fees or taxes that are imposed upon the customer. With respect to fees and taxes imposed upon the customer, the retailer is merely a collection agent for the local government that has enacted the fee or tax by ordinance. As such, the fee or tax the retailer is required to collect and hold in trust for the local government is not a receipt of the retailer. It is a receipt of the local government for whom the retailer is the collection agent.
Therefore, local fees and taxes imposed upon the retailer's customers are not includable in "gross proceeds of sales."

A fee or tax imposed upon the retailer is a receipt of the retailer. The retailer has the discretion to collect the fee or tax from his customer, but he is not required to do so. As such, the fee or tax when collected is a receipt of the retailer. When paid to the local government, the fee or tax is an expense of the retailer. Therefore, local fees and taxes imposed upon the retailer are includable in "gross proceeds of sales."

Therefore, city and county fees and taxes, when imposed on the retailer, are part of gross proceeds of sales and therefore subject to the sales tax. City and county fees and taxes, when imposed on the consumer, are not a part of gross proceeds of sales and therefore not subject to the sales tax.

With respect to the second issue, local option sales and use taxes administered and collected by the Department of Revenue are not included in the basis for calculating the state sales and use tax. By statute, these local option sales and use taxes must be administered and collected in the same manner as the state sales and use tax. As such, these local option sales and use taxes must have, among other things, the same exemptions and exclusions, the same definitions, and the same “gross proceeds of sales” and “sales price” as the state sales and use tax.

In addition, the local accommodations taxes authorized under Code Section 6-1-500 et. seq. is not included in the basis for calculating the state sales and use tax. This tax, while collected by the local government, must be “derived from the rental or charges for accommodations furnished to transients as provided in Section 12-36-920(A).” As stated earlier, Code Section 12-36-920(A) imposes a state sales tax equal to seven percent on the gross proceeds derived from rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodgings, or sleeping accommodations are furnished to transients for a consideration." By statute, this local accommodations tax must be administered and collected in the same manner as the state sales tax on accommodations. As such, the local accommodations tax authorized under Code Section 6-1-500 et. seq. must have the same “gross proceeds of sales” as the state sales tax on accommodations.

Therefore, local option sales and use tax administered and collected by the Department of Revenue and the local accommodations taxes authorized under Code Section 6-1-500 et. seq. are not includable in “gross proceeds of sales” and “sales price” for purposes of the state sales and use tax and the state sales and use tax is not includable in “gross proceeds of sales” and “sales price” for purposes of these local sales and use taxes.

SOUTH CAROLINA DEPARTMENT OF REVENUE

S/Burnett R. Maybank III  
Burnet R. Maybank, III, Director

Columbia, South Carolina  
December 17, 1997
SC REVENUE RULING 04-12

SUBJECT: Vacation Homes, Second Homes and Places of Abode (Sales Tax on Accommodations)

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

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


SC Revenue Procedure #03-1

SCOPE: The purpose of a Revenue Ruling is to provide guidance to the public and to Department personnel. It is a written statement issued to apply principles of tax law to a specific set of facts or a general category of taxpayers. A Revenue Ruling does not have the force or effect of law, and is not binding on the public. It is, however, the Department’s position and is binding on agency personnel until superseded or modified by a change in statute, regulation, court decision, or advisory opinion.

Question:

If a person owns a home with less than six sleeping rooms and rents the home or individual rooms in the home to others, are the rental charges under any of the following circumstances subject to the sales tax on accommodations under Code Section 12-36-920?

1. The owner uses the home only for one or two weeks a year for family vacations and rents it to others during the rest of the year on a weekly basis. The person renting the home from the owner may rent it for more than one week, but in no case does any one person rent it for more than three consecutive weeks.

2. The owner lives in the home for six months during the winter months and rents it to others during the rest of the year on a weekly basis. The person renting the home from the owner may rent it for more than one week, but in no case does any one person rent it for more than three consecutive weeks.

3. The owner lives in the home for six months during the summer months and rents it to another person for the remaining six months during the winter months.
4. The owner lives in the home throughout the year, but operates the home as a “bed and breakfast” whereby the remaining rooms are rented to others on a daily or weekly basis and the owner serves as an innkeeper providing the necessary amenities and services for each guest. The person renting a room at the home from the owner may rent it for more than one week, but in no case does any one person rent a room for more than two consecutive weeks.

In all the above circumstances, the owner rents the home or the individual rooms in the home on his own and does not employ the services of a real estate agent, broker or some other similar person to rent the home or the rooms.

Conclusion:

If a person owns a home with less than six sleeping rooms and rents the home to others, the rental charges under the following circumstances are subject to the sales tax on accommodations under Code Section 12-36-920:

1. The owner uses the home only for one or two weeks a year for family vacations and rents it to others during the rest of the year on a weekly basis. The person renting the home from the owner may rent it for more than one week, but in no case does any one person rent it for more than three consecutive weeks.

2. The owner lives in the home for six months during the winter months and rents it to others during the rest of the year on a weekly basis. The person renting the home from the owner may rent it for more than one week, but in no case does any one person rent it for more than three consecutive weeks.

If a person owns a home with less than six sleeping rooms and rents the home to others, the rental charges under the following circumstances are not subject to the sales tax on accommodations under Code Section 12-36-920:

1. The owner lives in the home for six months during the summer months and rents it to another person for the remaining six months during the winter months. The rental is not subject to the sales tax on accommodations since the home is rented to the same person for ninety or more continuous days.

2. The owner lives in the home throughout the year, but operates the home as a “bed and breakfast” whereby the remaining rooms are rented to others on a daily or weekly basis and the owner serves as an innkeeper providing the necessary amenities and services for each guest. The person renting a room at the home from the owner may rent it for more than one week, but in no case does any one person rent a room for more than two consecutive weeks. The rentals are not subject to the sales tax on accommodations since the home serves as the owner’s “place of abode” during the same times at which the remaining rooms are rented to others as part of a “bed and breakfast” facility.

In all the above circumstances, the owner rents the home or the individual rooms in the home on his own and does not employ the services of a real estate agent, broker or some other similar person to rent the home or the rooms.
Discussion:

Code Section 12-36-920 imposes the sale tax on accommodations, and reads:

(A) A sales tax equal to seven percent is imposed on the gross proceeds derived from the rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodgings, or sleeping accommodations are furnished to transients for a consideration. This tax does not apply where the facilities consist of less than six sleeping rooms, contained on the same premises, which is used as the individuals place of abode. The gross proceeds derived from the lease or rental of sleeping accommodations supplied to the same person for a period of ninety continuous days are not considered proceeds from transients. The tax imposed by this subsection (A) does not apply to additional guest charges as defined in subsection (B).

(B) A sales tax of five percent is imposed on additional guest charges at any place where rooms, lodgings, or accommodations are furnished to transients for a consideration, unless otherwise taxed under this chapter. The term additional guest charges includes, but is not limited to:

1. room service;
2. amenities;
3. entertainment;
4. special items in promotional tourist packages;
5. laundering and dry cleaning services;
6. in-room movies;
7. telephone charges;
8. rentals of meeting rooms; and
9. other guest services.

(C) Real estate agents, brokers, corporations, or listing services required to remit taxes under this section shall notify the department if rental property, previously listed by them, is dropped from their listings.

(D) When any business is subject to the sales tax on accommodations and the business has more than one place of business in the State, the licensee shall report separately in his sales tax return the total gross proceeds derived from business done within and without the corporate limits of municipalities. A taxpayer who owns or manages rental units in more than one county or municipality shall report separately in his sales tax return the total gross proceeds from business done in each county or municipality.

(E) The taxes imposed by this section are imposed on every person engaged or continuing within this State in the business of furnishing accommodations to transients for consideration.
Code Section 12-36-70(1)(b) defines the terms “retailer” and “seller” to include every person “furnishing accommodations to transients for a consideration, except an individual furnishing accommodations of less than six sleeping rooms on the same premises, which is the individuals [sic] place of abode.”

Code Section 12-36-510 establishes who, as a retailer or seller, must obtain a retail license before engaging in business. However, subsection (B)(3) of this section states that a retail license is not required of:

persons furnishing accommodations to transients for one week or less in any calendar quarter; however, accommodations taxes must be remitted annually, on forms prescribed by the department, by April 15 of the following year. This item (3) of this subsection does not apply to rental agencies or persons having more than one rental unit.

SC Regulation 117-307.3 concerns certain facilities that are not subject to the sales tax on charges for accommodations, and states:

The tax also applies to the gross proceeds from the rental or charges for any rooms, lodgings or accommodations furnished to transients by any hotel, inn, tourists court, motel, residence, or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration, except where such facilities consist of less than six sleeping rooms, contained on the same premises, which is used as the place of abode of the owner or operator of such facilities. The gross proceeds derived from the lease or rental of accommodations supplied to the same person for a period of 90 continuous days shall not be considered proceeds from transients.

SC Regulation 117-307.4 concerns rentals of ninety or more continuous days, and states:

A business, usually an airline, bus company or railroad, will reserve a certain number of rooms in a hotel for use by its personnel. Usually the hotel is guaranteed a certain minimum occupancy. The hotel is paid for the number of rooms that are occupied and would not necessarily furnish the same rooms each time. Such proceeds derived from the rentals of the accommodations supplied would be subject to the sales tax.

A business rents from a hotel certain specific rooms on a continuing basis. These rooms are occupied by authorized personnel of the corporation, on a daily basis. The hotel is paid for the specific number of rooms that are rented, whether they are used or not.

Transactions of this nature would not be subject to the tax if the contract remains in force for a time in excess of 90 continuous days.

Based on the above, the furnishing of accommodations for a consideration is subject to the sales tax on accommodations. However, the sales tax on accommodations does not apply if:

1. the same room is provided to the same person (individual or business) for a period of ninety or more continuous days; or
2. the facilities consist of less than six sleeping rooms, contained on the same premises, which is used as the place of abode of the owner or operator of such facilities.

While the regulation cited above provides guidance with respect to accommodations for ninety or more continuous days, neither the statute nor the regulations define the term “place of abode.”

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 SC 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 SC 484, 60 S.E.2d 682 (1950).

The Second College Edition of the American Heritage Dictionary defines the word “abode” to mean “a dwelling place or home.” Black’s Law Dictionary, Seventh Edition, defines the word “abode” to mean “a home; a fixed place of residence.”

In addition, it has been the longstanding policy of the Department that in order for the exception for a “place of abode” to apply, the facility must serve as the owner or operator’s home or residence, including periods during which one or more of the remaining sleeping rooms at the facility are rented to others. This is supported in a case decided by the Administrative Law Judge Division - Anonymous Taxpayer v. South Carolina Department of Revenue, 00-ALJ-17-0569-CC(1). In that case, the taxpayers were citizens and residents of Canada who owned a two bedroom villa in Hilton Head, South Carolina. The court noted in the “Finding of Fact” (Item 3) that “[i]n 1996, the [Taxpayers] began living in their South Carolina home for six months each year and no longer rented the property during the winter months. [The Taxpayers] have no rental agent, office, or employees in South Carolina.” The taxpayers rented the villa for the summer months by advertising on the Internet.

While the taxpayers raised several arguments before the court, they did not raise the argument that the villa was their “place of abode.” However, the court in its “Conclusions of Law and Discussion” concluded, as a matter of law, that under Code Section 12-36-920:

* * * *

2. Taxpayers renting accommodations in South Carolina have a duty to collect and remit accommodations tax on proceeds from such rentals pursuant to S.C. Code Ann. § 12-36-920 (2000). That statute provides in pertinent part:

(A) A sales tax equal to seven percent is imposed on the gross proceeds derived from the rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodgings, or sleeping accommodations are furnished to transients for a consideration. This tax does not apply where the facilities consist of less than six sleeping rooms, contained on the same premises, which is used as the individual's place of abode. The gross proceeds derived from the lease or rental of sleeping accommodations supplied to the same person for a period of ninety continuous days are not considered proceeds from transients. . . .
(E) The taxes imposed by this section are imposed on every person engaged or continuing within this State in the business of furnishing accommodations to transients for consideration.

Pursuant to this statute, a tax of seven percent is due on the rental of lodging in a residence to transients for periods of less than ninety days, where the residence in question is not the taxpayer's place of abode. Furthermore, the statute imposes the tax upon the person engaged in furnishing the accommodations to transients. Since the Hilton Head property is not the Petitioners' place of abode and since the rentals in question were all for less than ninety days, the Department argues that the accommodations tax is due on all rentals of the Petitioners' property during the audit period.

Upon reviewing the various arguments and issues raised by the taxpayers, the court upheld the imposition of the sales tax on accommodations.

Based on the above, it is the opinion of the Department that if a person owns a home with less than six sleeping rooms and rents the home to others, the rental charges under the following circumstances are subject to the sales tax on accommodations under Code Section 12-36-920:

1. The owner uses the home only for one or two weeks a year for family vacations and rents it to others during the rest of the year on a weekly basis. The person renting the home from the owner may rent it for more than one week, but in no case does any one person rent it for more than three consecutive weeks.

2. The owner lives in the home for six months during the winter months and rents it to others during the rest of the year on a weekly basis. The person renting the home from the owner may rent it for more than one week, but in no case does any one person rent it for more than three consecutive weeks.

If a person owns a home with less than six sleeping rooms and rents the home or individual rooms in the home to others, the rental charges under the following circumstances are not subject to the sales tax on accommodations under Code Section 12-36-920:

1. The owner lives in the home for six months during the summer months and rents it to another person for the remaining six months during the winter months. The rental is not subject to the sales tax on accommodations since the home is rented to the same person for ninety or more continuous days.

2. The owner lives in the home throughout the year, but operates the home as a “bed and breakfast” whereby the remaining rooms are rented to others on a daily or weekly basis and the owner serves as an innkeeper providing the necessary amenities and services for each guest. The person renting a room at the home from the owner may rent it for more than one week, but in no case does any one person rent a room for more than two consecutive weeks. The rentals are not subject to the sales tax on accommodations since the home serves as the owner’s “place of abode” during the same times at which the remaining rooms are rented to others as part of a “bed and breakfast” facility.
Note: For additional information concerning the sales tax on accommodations, the sales tax on “additional guest charges,” or the application of the sales or use tax to purchases of beds, linens, supplies and other items by an accommodations facility, see SC Regulation 117-307.

SOUTH CAROLINA DEPARTMENT OF REVENUE

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

May 24, 2004
Columbia, South Carolina
SC REVENUE RULING #09-1

SUBJECT: Federal Government Credit Cards
(Sales and Use Tax)

EFFECTIVE DATE: November 30, 2008

SUPERSEDES: SC Revenue Advisory Bulletin #02-3

S. C. Code Ann. Section 12-36-2130
SC Revenue Ruling #88-8

SC Revenue Procedure #05-2

SCOPE: The purpose of a Revenue Ruling is to provide guidance to the public and to Department personnel. It is an advisory opinion issued to apply principles of tax law to a set of facts or general category of taxpayers. It is the Department’s position until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion.

Code Section 12-36-2120(2) exempts from South Carolina sales and use tax “tangible personal property sold to the federal government.” Accordingly, in a transaction with the U.S. Government or federal employee conducting official business the applicability of the sales and use tax depends on whether the U.S. Government or the federal employee is making the purchase. The Department has concluded the following with respect to the sales and use tax exemption in Code Section 12-36-2120(2):

1. When the sale is between the retailer and the U.S. Government. If the U.S Government is billed directly or a federal employee uses a credit card whereby the U.S. Government is billed or the employee pays with a federal government check, the sale is exempt from South Carolina sales and use tax. The Department does not require that a tax exempt form be provided to the retailer to receive the tax exemption.

2. When the sale is between the retailer and the federal employee. If the federal employee is billed directly and reimbursed by the U.S. Government, the sale is subject to South Carolina sales and use tax. See SC Revenue Ruling #88-8.
The purpose of this advisory opinion is to specifically address the sales and use tax applicability to purchases made with the GSA SmartPay® credit cards described below.

The General Services Administration (“GSA”), through the GSA SmartPay® program, has entered into a contract with Citibank, JPMorgan Chase, and US Bank to provide charge card services to Federal government agencies and organizations for conducting official business. For most agencies/organizations, the program will be effective November 30, 2008 through November 29, 2018.

All GSA SmartPay® 2 charge cards can be identified by their unique prefixes and account numbers, government designed artwork, and wording that indicates that the card is for official purchases for the U.S. Government. These cards/accounts can be Centrally Billed Accounts, Individually Billed Accounts, or Integrated Accounts (i.e., centrally billed accounts, individually billed accounts, or a combination.) Card designs and account numbering structures can be accessed at www.gsa.gov/gsasmartpay and are also provided in Exhibit B for reference.

The GSA SmartPay® program consists of three business lines that are billed to either to the U.S. Government (centrally billed accounts) or federal employee (individually billed accounts) and are subject to South Carolina sales and use tax as indicated. The four GSA SmartPay cards provided are:

1. **Purchase Charge Card.** This card is used for purchasing supplies and services to support U.S. Government missions. It is a centrally billed account.\(^1\) Accordingly, official purchases made with these cards are exempt from South Carolina sales and use taxes.

2. **Fleet Charge Card.** This card is used for government vehicle fuel and maintenance requirements. It is a centrally billed account. Accordingly, official purchases made with these cards are exempt from South Carolina sales and use taxes.

3. **Travel Charge Card.** This card is used for official government travel and travel related expenses. It may be a centrally billed account or an individually billed account\(^2\); the 6th digit identifies whether the account is centrally or individually billed. If the 6th digit indicates the account is centrally billed, official purchases made with these cards are exempt from South Carolina sales and use taxes. If the 6th digit indicates the account is individually billed, official purchases made with these cards are subject to South Carolina sales and use taxes. (See “Billing Method” in Exhibit A for the 6th digit identifier.)

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1 Centrally Billed Accounts (“CBAs”). CBAs are charge card accounts in which all charges are billed directly to the federal government and paid directly by the federal government to the issuing bank. These cards are the sole responsibility of the U.S. Government.

2 Individually Billed Accounts (“IBAs”). IBAs are charge card accounts in which charges are paid directly by the cardholder/federal employee to the issuing bank; the federal employee is then reimbursed by the government. These cards are the sole responsibility of the employee (i.e., the federal government is not responsible if the cardholder fails to pay.)
4. **Integrated Charge Card.** This card combines two or more of the above business lines (i.e., includes fleet, travel, and/or purchase functionality and offers a single card for all purchases). The numbering structure to differentiate between centrally and individually billed accounts will be specific to each agency or organization using the Integrated card.

Currently, the Department of Interior is the only agency that uses the integrated card. In a letter dated November 19, 2008, the Department of Interior stated that transactions on the integrated cards begin with account number 558626 and are centrally billed and paid directly by the federal government. Since the numbering sequence indicates the account is centrally billed, official purchases made with these cards are exempt from South Carolina sales and use taxes.

**Note:** If the numbering sequence specific to each agency or organization indicates the integrated card account is individually billed, then such official purchases will be subject to South Carolina sales and use taxes.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Ray N. Stevens
Ray N. Stevens, Director

February 23, 2009
Columbia, South Carolina
EXHIBIT A

The following chart summarizes the taxability of sales transactions with the U.S Government or federal employees using the GSA SmartPay® program, the unique prefixes and account numbers on each card, and a brief description of the government designed artwork and wording on the card.

<table>
<thead>
<tr>
<th></th>
<th>Purchase Card</th>
<th>Fleet Card</th>
<th>Travel Card</th>
<th>Integrated Card – Used only by the Dept. of Interior as of 11/08</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1st four numbers on</strong></td>
<td>MasterCard 5565 or 5568</td>
<td>MasterCard 5565 or 5568</td>
<td>MasterCard 5565 or 5568</td>
<td>MasterCard 5565 or 5568</td>
</tr>
<tr>
<td><strong>the card</strong></td>
<td>Visa 4486, 4614, or 4716</td>
<td>Visa 4486, 4614, or 4716</td>
<td>6th digit indicates billing method (see below)</td>
<td></td>
</tr>
<tr>
<td><strong>Voyager 8699</strong></td>
<td>Voyager 8699</td>
<td>Visa 4486 or 4614</td>
<td>6th digit indicates billing method (see below)</td>
<td></td>
</tr>
<tr>
<td><strong>Wright Express 5565</strong></td>
<td>Wright Express 5565</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Card Design</strong></td>
<td>Red with computer keyboard and U.S. flag and “U.S. Government Tax Exempt”</td>
<td>Green with a road and U.S. flag</td>
<td>Blue with a jet and U.S. flag</td>
<td>Beige with an eagle and U.S. flag</td>
</tr>
<tr>
<td><strong>Billing Method</strong></td>
<td>Centrally billed</td>
<td>Centrally billed</td>
<td>Centrally billed if 6th digit is 0, 6, 7, 8, or 9. Individually billed if 6th digit is 1, 2, 3, or 4.</td>
<td>All fleet and purchase type transactions are centrally billed; Travel type transactions are centrally billed if the 6th digit is 6, 7, 8, or 9, otherwise individually billed.</td>
</tr>
<tr>
<td><strong>Tax Exemption</strong></td>
<td>Exempt from sales and use tax</td>
<td>Exempt from sales and use tax</td>
<td>Depends on billing method above; centrally billed are exempt; individually billed are taxable</td>
<td>Purchase and Fleet transactions are exempt; Travel transactions centrally billed are exempt</td>
</tr>
</tbody>
</table>
EXHIBIT B
Sample of SmartPay 2 Charge Cards

<table>
<thead>
<tr>
<th>Fleet Card</th>
<th>Purchase Card</th>
</tr>
</thead>
<tbody>
<tr>
<td>![Fleet Card Image]</td>
<td>![Purchase Card Image]</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Travel Card</th>
<th>Integrated Card – Used by Dept. of Interior Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>![Travel Card Image]</td>
<td>![Integrated Card Image]</td>
</tr>
</tbody>
</table>
SC REVENUE RULING #09-2

SUBJECT: Accommodations Furnished to Government Employees, Foreign Diplomats, and Nonprofit Organization Employees (Sales Tax)

EFFECTIVE DATE: November 30, 2008

SUPERSEDES: SC Revenue Ruling #04-1


SC Revenue Procedure #05-2

SCOPE: The purpose of a Revenue Ruling is to provide guidance to the public and to Department personnel. It is an advisory opinion issued to apply principles of tax law to a set of facts or general category of taxpayers. It is the Department’s position until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion.

Code Section 12-36-920 provides for a 7% sales tax on accommodations (a 5% State sales tax and a 2% accommodations tax) and a 6% State sales tax on additional guest charges. The statute reads:

(A) A sales tax equal to seven percent is imposed on the gross proceeds derived from the rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodgings, or sleeping accommodations are furnished to transients for a consideration. This tax does not apply where the facilities consist of less than six sleeping rooms, contained on the same premises, which is used as the individuals place of abode. The gross proceeds derived from the lease or rental of sleeping accommodations supplied to the same person for a period of ninety continuous days are not considered proceeds from transients. The tax imposed by this subsection (A) does not apply to additional guest charges as defined in subsection (B).
(B) A sales tax of [six] percent is imposed on additional guest charges at any place where rooms, lodgings, or accommodations are furnished to transients for a consideration, unless otherwise taxed under this chapter. The term additional guest charges includes, but is not limited to:
(1) room service;
(2) amenities;
(3) entertainment;
(4) special items in promotional tourist packages;
(5) laundering and dry cleaning services;
(6) in-room movies;
(7) telephone charges;
(8) rentals of meeting rooms; and
(9) other guest services.

Code Section 12-36-2120 provides certain exemptions from the sales tax on accommodations and additional guest charges. Exemptions are available for:

1. The federal government (including federally chartered credit unions and the American Red Cross). Code Section 12-36-2120(2) exempts tangible personal property sold to the federal government.

2. Foreign diplomats. Code Section 12-36-2120(1) exempts sales of tangible personal property which the State is prohibited from taxing by the Constitution or laws of the United States of America or this State.

3. Nonprofit organizations. Code Section 12-36-2120(41) exempts items sold by organizations under Section 12-37-220A(3) and (4) and B(5), (6), (7), (8), (12), (16), (19), (22), and (24), if the net proceeds are used exclusively for exempt purposes and no benefit inures to any individual. Code Section 12-36-2120(47) exempts tangible personal property sold to charitable hospitals predominately serving children exempt under Section 12-37-220, where care is provided without charge to the patient.

The purpose of this advisory opinion is to assist the hospitality industry in determining the proper taxation of accommodations furnished to employees of the government, federal credit unions, nonprofit organizations, the American Red Cross, and foreign diplomats. Note: This document addresses the 7% sales tax on accommodations and any local option sales taxes collected by the Department; it does not address any local taxes on accommodations that may be due and collected directly by a county.

1. Federal Government Employee. The taxability of accommodations furnished to a federal government employee depends upon whether the sale is between the retailer and the employee or between the retailer and the federal government. SC Revenue Ruling #09-1 – Federal Employee Credit Cards for more detailed information.

   a. Taxable Accommodations – Sales Between Retailer and Federal Employee. Accommodations furnished to a federal government employee conducting official business are subject to sales tax when the employee pays for the charge and is reimbursed by the federal government.
b. **Exempt Accommodations – Sales Between Retailer and Federal Government.**

Accommodations furnished to a federal government employee conducting official business are exempt from sales tax if: (1) the federal government is billed directly, (2) the federal employee uses a credit card that is billed directly to the federal government (see discussion below), or (3) the federal employee pays with a federal government check.

The following briefly explains the applicability of sales tax on accommodations purchased by a federal employee with a US Government travel credit card and integrated credit card.

**Travel Charge Card.** This card is used for official government travel and travel related expenses. The taxability of the purchase depends on whether the employee or the federal government is billed as described below:

   a. **Individually Billed Taxable Sale.** Travel charge cards that are billed to the employee are subject to sales tax. The partial account numbers for these travel charge cards are:

      Visa #4486 and #4614 and the sixth digit is 1, 2, 3 or 4;
      Mastercard #5565 and #5568 and the sixth digit is 1, 2, 3 or 4.

   b. **Centrally Billed Exempt Sale.** Travel charge cards that are billed directly to the federal government are not subject to sales tax. The partial account numbers for these charge cards are:

      Visa #4486 and #4614 and the sixth digit is 0, 6, 7, 8 or 9;
      Mastercard #5565 and #5568 and the sixth digit is 0, 6, 7, 8 or 9.

**Integrated Charge Card.** The integrated charge card combines two or more business lines (i.e., travel, fleet, and/or purchase) and offers a single card for all purchases. Currently, this card is used only by the Department of the Interior. The Department of Interior’s Mastercard begins with #5565 or #5568. If the 6th digit is 6, 7, 8, or 9, then the accommodations furnished are centrally billed to the federal government and are exempt from sales and use tax; if the 6th digit is 1, 2, 3, or 4, then the accommodations furnished are directly billed to the employee and are subject to sales tax.

2. **State or Local Government Employee.** Sales of accommodations to any state or local government employee (including an employee of a school district, college, etc.) are subject to sales tax regardless of whether the state or local government or the employee pays for the charges.

3. **Federal Credit Union Employee.** The taxability of accommodations furnished to a federal credit union employee depends upon whether the sale is between the retailer and the employee or between the retailer and the federal credit union.\(^1\)

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\(^1\) South Carolina Attorney General Opinion #S-OAG-59 concluded that federally chartered credit unions are instrumentalities of the federal government.
a. **Taxable Accommodations – Sale Between Retailer and Federal Employee.** Accommodations furnished to a federal credit union employee are subject to sales tax when the employee pays for the charge and is reimbursed by the federal credit union.

b. **Exempt Accommodations – Sale Between Retailer and Federal Credit Union.** Accommodations furnished to a federal credit union employee are exempt from sales tax if: (1) the federal credit union is billed directly, (2) the federal credit union employee uses a credit card that is billed directly to the federal credit union, or (3) the federal credit union employee pays with a federal credit union check. Note: This exemption does not apply to a federal credit union employee who works for an association that represents various federal credit unions if the association pays the charges since the association is not a federal credit union.

4. **Foreign Diplomats.** Accommodations furnished to foreign diplomats are exempt from sales tax in accordance with the type of card issued by, and the level of exemption authorized by, the Office of Foreign Mission. Retailers furnishing accommodations to foreign officials are required to record the protocol identification number from the tax exemption card on the invoice, bill of sale, cash register tape, or other written evidence of the transaction. See SC Information Letter #03-25 – Foreign Diplomats for more detailed information.

Exemption Cards Issued by the Office of Foreign Missions. The two types of tax exemption cards are:

1. **Personal Tax Exemption Card.** This card is used for exemption from state and local sales, restaurant, lodging, and similar taxes normally charged to a customer, and may be used only for the personal use of the bearer whose picture appears on the front of the card. Vendors may ask to see additional forms of identification, such as diplomatic I.D., or driver’s license.

2. **Mission Tax Exemption Card.** This card is issued to embassies, consulates, and international organizations for official purchases only and for the sole benefit of the mission identified on the face of the card. All purchases must be made in the name of the mission and paid for by mission check or credit card (not cash or personal check). Personal purchases are prohibited.

Each tax exemption card contains the individual’s name, photograph, mission employed by, an expiration date, and a protocol identification number for identification purposes. Each card will have one of two different levels of sales and use tax exemption and is indicated by the color of the card and the written explanation in the colored box. A card with a blue strip exempts the bearer from all state and local taxes on all personal and official purchases. A card with a yellow stripe allows a full tax exemption on all personal and official purchases except restricted categories or amounts identified on the face of the card. The tax exemption card, however, is not valid for exemption from taxes on telephones, other utilities, or gasoline purchases.
5. **Nonprofit Organization.** Only accommodations furnished to an employee of a charitable hospital predominately serving children exempt under Section 12-37-220, where care is provided without charge to the patient as provided in Code Section 12-36-2120(47) are exempt from sales tax if: (1) the qualifying hospital is billed directly for the transaction, (2) the qualifying hospital employee uses a credit card that is billed directly to the hospital, or (3) the nonprofit employee pays with a hospital check.

Sales of accommodations to employees of all other nonprofit organizations are subject to sales tax regardless of whether the nonprofit organization or the employee pays for the charges. See SC Revenue Procedure #03-6 – Exemption Certificates – Sales by Certain Nonprofit Organizations for more detailed information.

6. **American Red Cross Employee.** The taxability of accommodations furnished to an American Red Cross\(^2\) employee depends upon whether the sale is between the retailer and the employee or between the retailer and the American Red Cross.

   a. **Taxable Accommodations** - Accommodations furnished to an American Red Cross employee is subject to sales tax when the employee pays for the charge and is reimbursed by the American Red Cross.

   b. **Exempt Accommodations** - Accommodations furnished to an American Red Cross employee are exempt from sales tax if: (1) the American Red Cross is billed directly, (2) the American Red Cross employee uses a credit card that is billed directly to the American Red Cross, or (3) the American Red Cross employee pays with an American Red Cross check.

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SC REVENUE RULING #09-9

SUBJECT: Local Sales and Use Taxes and Catawba Tribal Sales and Use Tax (Sales and Use Tax)

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

SUPERSEDES: SC Revenue Ruling #91-17, SC Revenue Ruling #96-9 and all previous advisory opinions and any oral directives in conflict herewith.

MODIFIES: SC Revenue Ruling #05-16.


SCOPE: The purpose of a Revenue Ruling is to provide guidance to the public and to Department personnel. It is an advisory opinion issued to apply principles of tax law to a set of facts or a general category of taxpayers. It is the Department’s position until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion.

I. INTRODUCTION:

The South Carolina Code of Laws allows the imposition of various types of local sales and use taxes. Citizens of a county, depending upon the needs within the county, may

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1 Many school district and other local sales and use tax laws have not been codified. For information as to the act number assigned to, and the year of enactment of, such local sales and use tax laws, see SC Information Letter #09-8. SC Information Letter #09-8 contains the most recently published information; updated information will be published in new information letters on the Department’s website (http://www.sctax.org/Tax+Policy/Policy/salesIndex.htm) as warranted.
impose one or several local sales and use taxes. Municipal councils, or the citizens of a municipality, may impose a sales and use tax\(^2\) for tourism development if the municipality is located in a county where revenue from state accommodations tax is at least fourteen million dollars in a fiscal year.

The Department publishes a chart with the various types of local sales and use taxes collected by the Department and the exemptions allowed under each tax. As of the date of this document, SC Information Letter #09-8 contains the most recently published information; updated information will be published in new information letters on the Department’s website (http://www.sctax.org/Tax+Policy/Policy/salesIndex.htm) as warranted.

Most local taxes administered and collected by the Department of Revenue on behalf of local jurisdictions are administered and collected on a county-wide basis. However, the Catawba Tribal Sales and Use Tax is only imposed on the Catawba Indian Reservation and the Tourism Development Fee is only imposed on a municipal-wide basis. The criteria discussed in this advisory opinion, unless otherwise indicated in legislation enacted by the General Assembly, will also apply to any future sales and use taxes administered and collected by the Department of Revenue on behalf of a jurisdiction on a county-wide, municipal-wide or other basis as established by the General Assembly.

Please note that this advisory opinion only addresses the general local sales and use taxes collected by the Department of Revenue on behalf of local jurisdictions (e.g., counties, municipalities, school districts) and the tribal sales tax collected by the Department of Revenue on behalf of the Catawba Indian tribal government\(^3\). It does not address the local taxes on sales of accommodations or on sales of prepared meals that are collected directly by the counties.

II. TYPES OF LOCAL SALES AND USE TAXES:

The following is a list of local sales and use taxes\(^4\) that General Assembly has authorized the Department of Revenue to administer and collect on behalf of local jurisdictions that may enact one or more of these local sales and use taxes.

**Local Option:** The local option sales and use tax is authorized under Code Section 4-10-10 et. seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed to reduce the property tax burden on persons in the counties that impose this type of local tax and is collected by the Department of Revenue on behalf of these counties.

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\(^2\) This municipal sales and use tax is actually a fee (Local Option Tourism Development Fee) imposed under Article 9 of Chapter 10 of Title 4. For purposes of simplicity, this fee will be referred to as a sales and use tax in this revenue ruling.

\(^3\) The tribal use tax is collected directly by the Catawba Indian tribal government.

\(^4\) The General Assembly may authorize other local sales and use taxes in the future. Unless such legislation states otherwise, any such new local sales and use tax will be administered and collected in the same manner as the taxes listed in this advisory opinion. In addition, the Catawba Indian Tribal Sales Tax is not a local tax; however, it is administered and collected by the Department in a similar manner and is therefore included on this list.
**Capital Projects:** The local capital projects sales and use tax is authorized under Code Section 4-10-300 et. seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed specifically to defray the debt service on bonds issued for various capital projects in the counties that impose this type of local tax and is collected by the Department of Revenue on behalf of these counties.

**Transportation:** The local transportation projects sales and use tax is authorized under Code Section 4-37-30 et. seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed specifically to defray the debt service on bonds issued for various transportation projects in the counties that impose this type of local tax and are collected by the Department of Revenue on behalf of these counties.

**Personal Property Tax Relief:** The personal property tax relief sales and use tax is authorized under Code Section 4-10-540. et. seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed in lieu of the personal property tax imposed on private passenger motor vehicles, motorcycles, general aviation aircraft, boats, and boat motors. The tax may not exceed the lesser of 2% or the amount necessary to replace the property tax on vehicles, motorcycles, general aviation aircraft, boats, and boat motors in the most recently completed fiscal year.

**Local Property Tax Credits:** The local option sales and use tax for local property tax credits is authorized under Code Section 4-10-720 et. seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed to provide a credit against property tax imposed by a political subdivision for all classes of property subject to the property tax and is collected by the Department of Revenue on behalf of these counties.

**Education Capital Improvement Sales and Use Tax.** The school district or school districts within a county may impose a 1% sales and use tax within the county for specific education capital improvements for the school district for not more than 15 years. The tax is authorized under Code Section 4-10-410 et. seq. and must be approved by a referendum open to all qualified electors residing in the county. Pursuant to a memorandum of agreement, a portion of the revenue may be shared with the area commission (governing body of a technical college) or higher education board of trustees (governing body of a public institution of higher learning) or both, for specific education capital improvements on the campus of the recipient located in the county listed in the referendum. This tax may only be imposed in counties which have collected at least $7 million in state accommodations taxes in the most recent fiscal year for which data is available. Once the threshold is met, a county remains eligible to impose this tax. This tax may not be imposed in a county that is imposing or is scheduled to impose a local sales and use tax for public school capital improvements.
**School District Taxes.** The General Assembly has authorized certain school districts to impose a sales and use tax within the county. These taxes are generally imposed to pay debt service on general obligation bonds and/or the cost of capital improvements.

**Catawba Indian Tribal Tax:** The application of either the State sales and use tax or the Catawba Tribal sales and use tax for sales (deliveries) made on the Catawba Indian Reservation are determined by the Catawba Indian Claims Settlement Act. The specific sales and use tax provisions can be found in Code Section 27-16-130(H). The Catawba Indian Reservation is located in Lancaster and York counties. The sales tax is administered and collected by the Department.

**Tourism Development Tax:** The local tourism development sales and use tax is authorized under Code Section 4-10-910 et. seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax and may only be imposed by a municipality located in a county where revenue from the state accommodations tax is at least fourteen million dollars in a fiscal year. This tax may be imposed by an ordinance adopted by a two-thirds majority of the municipal council or by approval by a majority of qualified electors voting in a referendum authorized by a majority of the municipal council. The tax is imposed specifically for tourism advertisement and promotion directed at non-South Carolina residents; however, in the third and subsequent years of this tax a portion of the tax may be used for certain property tax rollbacks. The tax collected by the Department of Revenue on behalf of these municipalities.

Note: The Department publishes a chart with the various types of local sales and use taxes collected by the Department and the exemptions allowed under each tax. As of the date of this document, SC Information Letter #09-8 contains the most recently published information; updated information will be published in new information letters on the Department’s website (http://www.sctax.org/Tax+Policy/Policy/salesIndex.htm) as warranted.

**III. RETAILER’S RESPONSIBILITY TO REMIT LOCAL SALES AND USE TAXES:**

Whether or not a retailer can be required to remit a jurisdiction’s tax is dependent upon the controlling facts and the extent of the seller's activities with the jurisdiction into which tangible personal property is delivered.

If a retailer that has established Commerce Clause nexus with South Carolina purposefully avails itself of the benefits of the economic market of a jurisdiction or it has purposefully directed it efforts toward the residents of a jurisdiction, it has a minimal connection with that jurisdiction sufficient to subject it to that jurisdiction’s authority and therefore require it to remit the jurisdiction’s tax on its deliveries into that jurisdiction, even if it has no physical presence in that particular jurisdiction.
Examples of when a retailer that has established Commerce Clause nexus with South Carolina must remit a jurisdiction’s sales and use tax include, but are not limited to:

**Retailers Using Their Own Vehicles:** A retailer is required to remit a jurisdiction’s tax if the retailer is shipping property into the jurisdiction using his own vehicles (whether owned or leased).

**Retailers Using a Contract Carrier:** A retailer is required to remit a jurisdiction’s tax if the retailer is shipping property into the jurisdiction using a contract carrier (an independent or related company working specifically for or otherwise representing the retailer with respect to the delivery.)

**Retailers Using a Common Carrier:** A retailer is required to remit a jurisdiction’s tax if the retailer is shipping property into the jurisdiction using a common carrier (e.g., UPS, the mail), and the retailer is subject to the jurisdiction of delivery’s authority (Due Process nexus has been established with the jurisdiction of delivery).

Examples of when a retailer is subject to the jurisdiction of delivery’s authority include, but are not limited to, the following:

(a) The retailer maintains, temporarily or permanently, directly or by subsidiary, an office, warehouse, distribution house, sales house, other place of business, or property of any kind in the jurisdiction of delivery.

(b) The retailer or a subsidiary has, temporarily or permanently, an agent, representative (including delivery personnel and independent contractors acting on behalf of the retailer), salesman, or employee operating within the jurisdiction of delivery.

(c) The retailer advertises via advertising media located in the jurisdiction of delivery (e.g., newspapers, television, cable systems, and radio).

(d) The retailer advertises via advertising media located outside the jurisdiction but which has coverage within the jurisdiction of delivery (e.g., newspapers, television, cable systems, and radio).

Please note that these statements are only examples and that there are other circumstances in which a retailer must remit a jurisdiction’s tax with respect to deliveries into that jurisdiction. Retailers must be aware that as the courts address this issue, the requirements for remitting a jurisdiction’s tax may evolve and the retailer will be liable for the tax if the retailer fails to remit the tax when it has a connection with that jurisdiction sufficient to require it to remit that jurisdiction’s tax. If upon being audited, it is found a retailer has a sufficient connection with a particular jurisdiction so as to require remittance of that jurisdiction’s tax, but the retailer has failed to do so, the Department will assess the retailer for that jurisdiction’s tax.
For a detailed discussion of this matter, see SC Revenue Ruling #05-16. However, please note that this revenue ruling modifies SC Revenue Ruling #05-16 since at the time it was issued all local sales and use taxes were administered and collected on a county-wide basis. With the enactment of the Tourism Development Tax under Code Section 4-10-910 et. seq (Senate Bill No. 483 of 2009), the principles of SC Revenue Ruling #05-16 also apply to local sales and use taxes imposed on a municipal-wide or other basis, such as the Tourism Development Tax.

IV. QUESTIONS & ANSWERS CONCERNING LOCAL SALES AND USE TAXES:

In-State Retailers – Remittance and Reporting Requirements:

1. Q. What are the criteria that must be met to require an in-state retailer to collect a jurisdiction's local tax and how must the in-state retailer report sales for purposes of the local sales and use taxes?

   A. If a retailer located in South Carolina purposefully avails itself of the benefits of the economic market of a jurisdiction or it has purposefully directed it efforts toward the residents of a jurisdiction, it has a minimal connection with that jurisdiction sufficient to subject it to that jurisdiction’s authority and therefore require it to remit the jurisdiction’s tax on its deliveries into that jurisdiction, even if it has no physical presence in that particular jurisdiction.

   Examples of when a retailer located in South Carolina must remit a jurisdiction’s sales and use tax include, but are not limited to:

   **Retailers Using Their Own Vehicles:** A retailer is required to remit a jurisdiction's tax if the retailer is shipping property into the jurisdiction using his own vehicles (whether owned or leased).

   **Retailers Using a Contract Carrier:** A retailer is required to remit a jurisdiction's tax if the retailer is shipping property into the jurisdiction using a contract carrier (an independent or related company working specifically for or otherwise representing the retailer with respect to the delivery.)

   **Retailers Using a Common Carrier:** A retailer is required to remit a jurisdiction's tax if the retailer is shipping property into the jurisdiction using a common carrier (e.g., UPS, the mail), and the retailer is subject to the jurisdiction of delivery’s authority (Due Process nexus has been established with the jurisdiction of delivery).

   Examples of when a retailer is subject to the jurisdiction of delivery’s authority include, but are not limited to, the following:
(a) The retailer maintains, temporarily or permanently, directly or by subsidiary, an office, warehouse, distribution house, sales house, other place of business, or property of any kind in the jurisdiction of delivery.

(b) The retailer or a subsidiary has, temporarily or permanently, an agent, representative (including delivery personnel and independent contractors acting on behalf of the retailer), salesman, or employee operating within the jurisdiction of delivery.

(c) The retailer advertises via advertising media located in the jurisdiction of delivery (e.g., newspapers, television, cable systems, and radio).

(d) The retailer advertises via advertising media located outside the jurisdiction but which has coverage within the jurisdiction of delivery (e.g., newspapers, television, cable systems, and radio).

Please note that these statements are only examples and that there are other circumstances in which a retailer must remit a jurisdiction's tax with respect to deliveries into that jurisdiction. Retailers must be aware that as the courts address this issue, the requirements for remitting a jurisdiction’s tax may evolve and the retailer will be liable for the tax if the retailer fails to remit the tax when it has a connection with that jurisdiction sufficient to require it to remit that jurisdiction’s tax. If upon being audited, it is found a retailer has a sufficient connection with a particular jurisdiction so as to require remittance of that jurisdiction's tax, but the retailer has failed to do so, the Department will assess the retailer for that jurisdiction's tax.

Sales on which a retailer is required to report a local sales or use tax are to be reported by jurisdiction of delivery on Form ST-389, which is to be attached to the appropriate sales and use tax return. Form ST-389 provides information as to which type of local sales and use tax must be reported by county and municipality and which type of local sales and use tax must be reported only by county or only by municipality.

**Out-of-State Retailers – Remittance and Reporting Requirements:**

2. Q. What are the criteria that must be met to require an out-of-state retailer to collect a jurisdiction's local tax and how must the out-of-state retailer report sales for purposes of the local sales and use taxes?

   A. If a retailer that has established Commerce Clause nexus with South Carolina purposefully avails itself of the benefits of the economic market of a jurisdiction or it has purposefully directed it efforts toward the residents of a jurisdiction, it has a minimal connection with that jurisdiction sufficient to subject it to that jurisdiction’s authority and therefore require it to remit the jurisdiction’s tax on its deliveries into that jurisdiction, even if it has no physical presence in that particular jurisdiction.
Examples of when a retailer that has established Commerce Clause nexus with South Carolina must remit a jurisdiction’s sales and use tax include, but are not limited to:

**Retailers Using Their Own Vehicles:** A retailer is required to remit a jurisdiction's tax if the retailer is shipping property into the jurisdiction using his own vehicles (whether owned or leased).

**Retailers Using a Contract Carrier:** A retailer is required to remit a jurisdiction's tax if the retailer is shipping property into the jurisdiction using a contract carrier (an independent or related company working specifically for or otherwise representing the retailer with respect to the delivery.)

**Retailers Using a Common Carrier:** A retailer is required to remit a jurisdiction's tax if the retailer is shipping property into the jurisdiction using a common carrier (e.g., UPS, the mail), and the retailer is subject to the jurisdiction of delivery’s authority (Due Process nexus has been established with the jurisdiction of delivery).

Examples of when a retailer is subject to the jurisdiction of delivery’s jurisdiction include, but are not limited to, the following:

(a) The retailer maintains, temporarily or permanently, directly or by subsidiary, an office, warehouse, distribution house, sales house, other place of business, or property of any kind in the jurisdiction of delivery.

(b) The retailer or a subsidiary has, temporarily or permanently, an agent, representative (including delivery personnel and independent contractors acting on behalf of the retailer), salesman, or employee operating within the jurisdiction of delivery.

(c) The retailer advertises via advertising media located in the jurisdiction of delivery (e.g., newspapers, television, cable systems, and radio).

(d) The retailer advertises via advertising media located outside the jurisdiction but which has coverage within the jurisdiction of delivery (e.g., newspapers, television, cable systems, and radio).

Please note that these statements are only examples and that there are other circumstances in which a retailer must remit a jurisdiction’s tax with respect to deliveries into that jurisdiction. Retailers must be aware that as the courts address this issue, the requirements for remitting a jurisdiction’s tax may evolve and the retailer will be liable for the tax if the retailer fails to remit the tax when it has a connection with that jurisdiction sufficient to require it to remit that jurisdiction’s tax. If upon being audited, it is found a retailer has a sufficient
connection with a particular jurisdiction so as to require remittance of that jurisdiction's tax, but the retailer has failed to do so, the Department will assess the retailer for that jurisdiction's tax.

Sales upon which a retailer is required to collect a local use tax are to be reported by jurisdiction of delivery on Form ST-389, which is to be attached to the appropriate sales and use tax return. Form ST-389 provides information as to which type of local sales and use tax must be reported by county and municipality and which type of local sales and use tax must be reported only by county or only by municipality.

**Voluntary Collection of a Local Tax:**

3. Q. May a retailer, who is not subject to a particular jurisdiction’s authority as discussed in Questions #1 and #2 above to require the retailer to collect that jurisdiction's local use tax, voluntarily collect that jurisdiction's local use tax?

A. Yes. If a retailer voluntarily collects the local use tax, he has an obligation to remit the tax to the Department.

**Purchasers - Reporting Requirements:**

4. Q. The liability for a local use tax, as with the state use tax, is on the purchaser. The retailer may, however, be required to collect the tax from the purchaser as discussed in Questions #1 and #2 above and remit the local tax to the Department. If the retailer does not collect the local use tax from the purchaser, then the purchaser must pay the tax directly to the Department on his return.

In those situations where the retailer does not collect the local use tax, how is the purchaser to report the tax?

A. Purchases of tangible personal property (not for resale) first stored, used or consumed in a local tax jurisdiction are subject to the local use tax. Such purchases are to be reported on Form ST-389 by county and/or municipality where the property is first stored, used or consumed. Form ST-389 provides information as to which type of local sales and use tax must be reported by county and municipality and which type of local sales and use tax must be reported only by county or only by municipality.

**NOTE:** The purchaser is not liable for a jurisdiction's local use tax if he takes delivery in another jurisdiction and pays the other jurisdiction's local sales tax, provided the local sales tax he paid is equal to or greater than the local use tax that would otherwise be due. If the local sales tax he paid is less than the local use tax, then the purchaser owes the difference. Also, the purchaser is relieved of the liability for the local use tax if he has a receipt from a retailer showing the retailer has collected the local use tax.
Artists, Craftsmen & Transient or Temporary Retailers:

5. Q. How are "artists and craftsmen" licensed under Code Section 12-36-510(A)(2) and "transient or temporary" retailers licensed under Code Section 12-36-510(A)(3) to report their sales?

A. Such retailers are to report their sales on Form ST-389 by jurisdiction where delivery is made. (See Questions #1 and #2.) Form ST-389 provides information as to which type of local sales and use tax must be reported by county and municipality and which type of local sales and use tax must be reported only by county or only by municipality.

Withdrawals for Use:

6. Q. Code Section 12-36-110(c) defines "retail sale" to include "the withdrawal, use, or consumption of tangible personal property by anyone who purchases it at wholesale". How are such "retail sales" to be reported?

A. These retail sales are to be reported on Form ST-389 by jurisdiction where the property is first withdrawn, used or consumed. Form ST-389 provides information as to which type of local sales and use tax must be reported by county and municipality and which type of local sales and use tax must be reported only by county or only by municipality.

For additional information about the taxation of “withdrawals for use,” see SC Revenue Ruling #08-11.

Sales Made via Outside Salesmen:

7. Q. How are in-state retailers to report sales made as a result of orders taken by outside salesmen?

A. Such retailers are to report their sales on Form ST-389 by jurisdiction where delivery is made. (See Questions #1 and #2.) Form ST-389 provides information as to which type of local sales and use tax must be reported by county and municipality and which type of local sales and use tax must be reported only by county or only by municipality.

8. Q. How are in-state retailers to report sales made by outside salesmen who, at the time of taking the order, also deliver the merchandise to the customer?

A. Such retailers are to report their sales on Form ST-389 by jurisdiction where delivery is made. (See Questions #1 and #2.) Form ST-389 provides information as to which type of local sales and use tax must be reported by county and municipality and which type of local sales and use tax must be reported only by county or only by municipality.
9. Q. How are out-of-state retailers who solicit orders via salesmen to report their sales?

   A. Such retailers are to report their sales on Form ST-389 by jurisdiction where delivery is made. Form ST-389 provides information as to which type of local sales and use tax must be reported by county and municipality and which type of local sales and use tax must be reported only by county or only by municipality.

   If the property is delivered into a local tax jurisdiction, then the sale is subject to the local sales and use tax. If the property is delivered into a jurisdiction that has not imposed a local tax, then a local sales and use tax is not due. (See Question #1 and #2.)

   “Direct Pay” Certificates:

10. Q. What effect, if any, does the use of a "direct pay" exemption certificate (Code Section 12-36-2510) have on the reporting of a local sales and use tax?

   A. By using a so-called "direct pay" exemption certificate, a taxpayer can make all purchases tax free and must pay any taxes due directly to the Department. The taxpayer is liable for any taxes due and the tax (sales or use) is due upon the property being "withdrawn, used or consumed by the taxpayer". For purposes of a local sales and use tax, such withdrawals, use or consumption are reportable on Form ST-389 by jurisdiction where the property is first withdrawn, used or consumed. Form ST-389 provides information as to which type of local sales and use tax must be reported by county and municipality and which type of local sales and use tax must be reported only by county or only by municipality.

11. Q. For those taxpayers who use a "direct pay" exemption certificate, what is the effect on a local sales and use tax if the property is merely transferred from one locale to another? By "transferred", it is meant the property is not withdrawn from inventory for use or consumption, but is merely moved from one location to another.

   A. Merely transferring property from one locale to another does not trigger the tax. The tax is due when the property is withdrawn, used or consumed by the taxpayer and such withdrawal, use or consumption is reportable on Form ST-389 by the jurisdiction where first withdrawn, used or consumed. Form ST-389 provides information as to which type of local sales and use tax must be reported by county and municipality and which type of local sales and use tax must be reported only by county or only by municipality.

   “Limited” Exemption Certificates:

12. Q. What effect, if any, does use of a "limited" exemption certificate have on the reporting of a local sales and use tax?
A. Unlike a "direct pay" exemption certificate, which allows the holder to make all purchases free of the tax, a so-called "limited" exemption certificate only allows specific items, which are exempt under Code Section 12-36-2120, to be purchased tax-free.

If the holder of the limited exemption certificate purchases an item which falls within an exemption provided by Code Section 12-36-2120, then the purchase is exempt from the state tax and the local sales and use tax.

However, if the holder uses the certificate to purchase an item not exempt under Code Section 12-36-2120, then the holder of the certificate is liable for any tax due upon the property being withdrawn, used or consumed. For purposes of a local sales and use tax, such withdrawals, use or consumption are reportable on Form ST-389 by jurisdiction where the property is first withdrawn, used or consumed. Form ST-389 provides information as to which type of local sales and use tax must be reported by county and municipality and which type of local sales and use tax must be reported only by county or only by municipality.

**Transactions Not Subject to the Local Sales and Use Tax:**

13.Q. Are there any transactions which are not subject to the local sales and use taxes?

A. Yes.

The Department publishes a chart with the various types of local sales and use taxes collected by the Department and the exemptions allowed under each tax. As of the date of this document, SC Information Letter #09-8 contains the most recently published information; updated information will be published in new information letters on the Department’s website ([http://www.sctax.org/Tax+Policy/Policy/salesdx.htm](http://www.sctax.org/Tax+Policy/Policy/salesdx.htm)) as warranted.

**Construction Contracts:**

14. Q. How does a local sales and use tax apply to construction contracts?

A. Each local sales and use tax provides that "[t]he gross proceeds of sales of tangible personal property delivered after the imposition date of the [local sales and use] tax levied … in a [jurisdiction], either under the terms of a construction contract executed before the imposition date, or a written bid submitted before the imposition date culminating in a construction contract entered into before or after the imposition date are exempt from the local sales and use tax…provided a verified copy of the contract is filed with the South Carolina Department of Revenue within six months after the imposition of the local option sales and use tax".

To apply for the above exemption, use Form ST-10C.
Local Sales Tax:

For those transactions which are not exempt under the above provisions, the local sales tax is reportable by the contractor's supplier in the jurisdiction where the tangible personal property is delivered.

Local Use Tax:

For those transactions which are not exempt under the above provisions, the local use tax is reportable on Form ST-389 by jurisdiction where the property is first stored, used or consumed. Form ST-389 provides information as to which type of local sales and use tax must be reported by county and municipality and which type of local sales and use tax must be reported only by county or only by municipality.

The liability for the local use tax, as with the state use tax, is on the contractor. The supplier may, however, be required to collect the tax from the contractor and remit it to the Department. (See Questions #1 - #3 for information as to when a supplier is required to remit a local jurisdiction tax for tangible personal property delivered in or into a local tax jurisdiction.)

If the contractor takes delivery in one local tax jurisdiction and pays that jurisdiction's local sales tax to the supplier, he is not liable for the local use tax if he takes the property to another local tax jurisdiction and stores, uses or consumes the property in that jurisdiction, provided the local sales tax he paid is equal to or greater than the local use tax that would otherwise be due. If the local sales tax he paid is less than the local use tax, then the contractor owes the difference. Also, the contractor is relieved of the liability for the local use tax if he has a receipt from a retailer showing the retailer has collected the local use tax.

15. Q. Code Section 12-36-110(1)(d) includes in the definition of "retail sale" "the use within this State of tangible personal property by its manufacturer as building materials in the performance of a construction contract".

How are such businesses, which are generally referred to as "manufacturer/contractors", to report these “retail sales”?

A. “Manufacturer/contractors” are to report the local sales or use tax on Form ST-389 by jurisdiction where the property is used or consumed - the location of the construction site. Form ST-389 provides information as to which type of local sales and use tax must be reported by county and municipality and which type of local sales and use tax must be reported only by county or only by municipality.
Vending Machine Operators

16. Q. How are businesses that make sales from vending machines to report their sales?

A. Local Sales Tax:

Items to be sold from vending machines, except for cigarettes and soft drinks in closed containers, purchased from suppliers and subject to the local sales tax when delivered to the vending machine operator in or into a local tax jurisdiction are the liability of the vending machine operator's supplier. The supplier must account for these sales on Form ST-389 by the jurisdiction where the property is delivered to the vending machine operator. Form ST-389 provides information as to which type of local sales and use tax must be reported by county and municipality and which type of local sales and use tax must be reported only by county or only by municipality.

Sales of cigarettes and soft drinks in closed containers are subject to a local sales tax upon being sold from the vending machines, if the machines are located in a local tax jurisdiction. The liability for the tax is on the vending machine operator and he is to account for such sales on Form ST-389 by jurisdiction in which the vending machines are located. Form ST-389 provides information as to which type of local sales and use tax must be reported by county and municipality and which type of local sales and use tax must be reported only by county or only by municipality.

Local Use Tax:

Items to be sold from vending machines, except for cigarettes and soft drinks in closed containers, which are purchased from suppliers and subject to the local use tax are the liability of the vending machine operator.

However, the vending machine operator is not liable for the jurisdiction's local use tax if he takes delivery in another jurisdiction and pays the other jurisdiction's local sales tax, provided the local sales tax he paid is equal to or greater than the local use tax that would otherwise be due. If the local sales tax he paid is less than the local use tax, then the vending machine operator owes the difference. Also, the vending machine operator is relieved of the liability for the local use tax if he has a receipt from a retailer showing the retailer has collected the local use tax.

If the supplier (whether in-state or out-of-state) does not collect the local tax from the vending machine operator (who is liable for the local use tax), or the local sales tax is not paid, then the vending machine operator is to pay the tax directly to the Department on his return. (See Questions #1 - #3 as to when a retailer is required to remit the local tax.)
Purchases by the vending machine operator of cigarettes and soft drinks in closed containers for sale from vending machines are not subject to the local use tax. The local sales tax is due upon such items being sold from machines located in a local tax jurisdiction. The liability for the local sales tax is on the vending machine operator. Again, such sales are to be accounted for on Form ST-389 by jurisdiction where the machines are located. Form ST-389 provides information as to which type of local sales and use tax must be reported by county and municipality and which type of local sales and use tax must be reported only by county or only by municipality.

**Utilities**

17. Q. How are utilities to report the local sales or use tax?

A. Utilities must report sales in the jurisdiction in which consumption of the tangible personal property occurs. In other words, utilities are to report their sales on Form ST-389 by jurisdiction where their customers are located. Form ST-389 provides information as to which type of local sales and use tax must be reported by county and municipality and which type of local sales and use tax must be reported only by county or only by municipality.

A utility, as a result of its network of pipelines, transmissions lines or towers, its regional or statewide advertising, and the repair and other services it provides, is considered engaged in business in every jurisdiction in which it has customers. Therefore, a utility, for purposes of this document, will be considered located in every jurisdiction in which it has customers and will be liable for the local sales tax in each of these counties that has enacted one or more of the local sales and use taxes administered and collected by the Department of Revenue.

18. Q. For purposes of question #17, what is a "utility"?

A. A "utility" is an entity which sells products or services subject to the state sales and use tax and transmits or delivers its products or services via electronic transmissions or pipelines (i.e., electric and gas companies, telephone companies, cable TV companies and other communications companies).

**Note:** Entities which sell water via pipelines to the public are also "utilities"; however, their sales are exempt from the state sales and use tax and all local sales and use taxes administered and collected by the Department.

**Businesses Which Bill on a Monthly Basis:**

19. Q. For those taxpayers who sell and bill their services on a monthly basis (i.e. electric utilities and cable TV companies), when are they to begin reporting the local sales or use tax?
A. Taxpayers who sell and bill their services on a monthly basis (i.e. electric utilities and cable TV companies) must report the local tax beginning on the first day of the billing period beginning on or after the date of general imposition. The phrase “date of general imposition” means the date the local sales and use tax becomes effective in a particular jurisdiction.

For example, if an electric power company has a billing period ending May 10, 2009, the first "billing cycle" subject to a local sales and use tax that became effective on May 1, 2009 would be the period beginning May 11, 2009. The period May 1st through May 10th would not be subject to the local sales and use tax.

Leases:

20. Q. If tangible personal property is leased prior to the imposition date of a local sales and use tax in a local tax jurisdiction and the lease period extends beyond the imposition date, does the local sales or use tax apply to those lease payments made after the imposition date?

A. No. The local sales or use tax would not apply to those lease payments made after the imposition date on leases entered into before the imposition date of a local sales and use tax. However, if the lease has an optional renewal provision and the lessee renews the lease under this option after the imposition date of the local sales and use tax, then the local sales and use tax would apply to those lease payments made after the renewal.

Note: For more information concerning leases, see SC Revenue Ruling #91-9.

Installment Sales:

21. Q. Code Section 12-36-2560, which concerns sales made on an installment basis, allows a retailer to elect "to include in the return only the portion of the sales price actually received by the retailer during the taxable period or to include the entire sales price in the return for the taxable period during which the sale was consummated".

If the retailer has elected to pay the tax as payments are received, are payments received after the imposition date of the local sales and use tax subject to the local sales or use tax?

A. For sales made after the imposition date, the local sales or use tax applies to all payments received. For sales made before the imposition date, the local sales or use tax would not apply.

For those sales made on or after the imposition date of the local sales and use tax, and on which the retailer does not collect the local use tax from the purchaser (if
he delivers to the purchaser in a local tax jurisdiction, the purchaser must pay his jurisdiction's local use tax on his return directly to the Department. If the purchaser must pay the local use tax, the tax is due on the entire purchase price. The purchaser may not pay the local use tax as payments are made to the retailer.

**Accommodations:**


A. Yes. A local sales tax applies to charges for accommodations.

Note: Since the sales tax is imposed on “accommodations furnished,” the local sales tax on accommodations applies to accommodations furnished on or after the imposition date of the local sales tax, regardless of when the reservation and/or payment was made. For example, if a local sales tax is imposed effective May 1, 2010, the local sales tax on accommodations applies to accommodations furnished on or after May 1, 2010 even if the guest reserved and/or paid for the accommodations prior to May 1, 2010.

23.Q. Does a local sales tax apply to "additional guest charges", as defined at Code Section 12-36-920(B)?

A. Yes. A local sales tax applies to charges for "additional guest charges".

24.Q. How are taxpayers who are subject to the sales tax on accommodations and "additional guest charges" to report a local sales tax if they own or manage rental units in different counties or municipalities?

A. Taxpayers who are subject to the sales tax on accommodations and "additional guest charges" must report separately in their sales tax returns the total gross proceeds from business done in each jurisdiction, using Form ST-389. Form ST-389 provides information as to which type of local sales and use tax must be reported by county and municipality and which type of local sales and use tax must be reported only by county or only by municipality.

Note: For more detailed information as to the application of the state and local sales taxes to accommodations and “additional guest charges,” see SC Regulation 117-307.

**Credit for Sales and Use Taxes Paid in Another State:**

25.Q. May credit be taken against the local use tax for sales and use tax due and paid in another state?

A. Yes. Credit may be taken against the local use tax for sales and use tax due and paid in another state, as provided below:
If the total tax due and paid in another state (state plus local) is less than state and local tax due in a South Carolina jurisdiction which has imposed one or more local taxes, then the use tax owed in South Carolina is to be allocated to the State and to the jurisdiction.

For example, if another state has a 5% state tax and a 1% local tax; therefore, if a taxpayer makes a purchase in that state with a sales price of $1,000, upon which the 6% tax was due and paid in that other state, and stores, uses or consumes the property in a South Carolina jurisdiction which has imposed a 1% use tax, the difference owed in South Carolina (1%) is to be allocated as follows -

\[
\text{State portion} = \frac{6}{7} \times 1\% \times $1,000 = \$8.57
\]
\[
\text{Local portion} = \frac{1}{7} \times 1\% \times $1,000 = \$1.43
\]
\[
\text{Total due} = \$10.00
\]

If the total sales and use taxes due and paid in another state (state plus local) is equal to or greater than the state and local tax due in a South Carolina jurisdiction, no tax will be due in South Carolina (either state or local).

If the property is stored, used or consumed in a S.C. county which has not imposed the sales and use tax, credit will be allowed against the state use tax up to the amount of state and local taxes due and paid in the other state.

Note: If the purchaser takes delivery of tangible personal property in a local tax jurisdiction and pays that jurisdiction's local sales tax to the retailer, the purchaser is not liable for the local use tax if the property is first stored, used or consumed in another local tax jurisdiction, provided the local sales tax he paid is equal to or greater than the local use tax that would otherwise be due. If the local sales tax he paid is less than the local use tax, then the purchaser owes the difference. Also, the purchaser is relieved of the liability for the local use tax if he has a receipt from a retailer showing the retailer has collected the full local use tax due.

Refunds of State & Local Sales and Use Taxes:

Q. If a retailer pays taxes which should not have been paid, who is entitled to a refund - the retailer or the purchaser?

A. Sale Involving State Sales Tax and Local Sales Tax. If a retailer delivers property in or into a local tax county, the retailer may receive a refund for the state sales tax and the local sales tax, if the tax should not have been paid.
Sales Involving State Sales Tax and Local Use Tax. If a retailer has property delivered into a local tax jurisdiction, the retailer may receive a refund for the state sales tax, if the tax should not have been paid. The retailer may not, however, receive a refund for the local use tax.

The purchaser is the taxpayer for purposes of the local use tax and is, therefore, the only one entitled to the refund for the local use tax. To receive the refund, the purchaser must have documentation showing he has paid the local use tax to the retailer.

Sales Involving State Use Tax and Local Use Tax. If a retailer has property delivered into a local tax jurisdiction, the retailer may not receive a refund for the state use tax or the local jurisdiction use tax, if the tax should not have been paid.

The purchaser is the taxpayer for purposes of the state use tax and the local jurisdiction use tax and is, therefore, the only one entitled to the refund for the state and local use taxes. To receive the refund, the purchaser must have documentation showing he has paid the state and local use taxes to the retailer.

Exceptions: See Code Section 12-60-470(C) for information as to (1) the authority of a retailer to assign the right to a refund of the state sales tax or the local sales tax to the purchaser and (2) the authority of a retailer to claim a refund of the state use tax and the local use tax when (a) the retailer can establish the use tax has been repaid to the purchaser (from whom the use tax was collected) or (b) the retailer has obtained the written consent of the purchaser (from whom the use tax was collected) that allows the retailer to claim the refund of the to the state use tax and the local use tax.

How to Request a Refund. Taxpayers who are entitled to a refund of the state or local sales and use tax may send a letter to:

South Carolina Department of Revenue
Sales Tax Refund Request
P.O. Box 125
Columbia, S.C. 29214

This letter must contain the following information as required by Code Section 12-60-470:

(1) the name, address, and telephone number of the taxpayer;
(2) the appropriate taxpayer identification number or numbers;
(3) the tax period or date for which the tax was paid;
(4) the nature and kind of tax paid;
(5) the amount which the taxpayer claims was erroneously paid;
(6) a statement of facts supporting the taxpayer’s position;
(7) a statement outlining the reasons for the claim, including law or other authority upon which the taxpayer relies; and
(8) a schedule showing (by month) a breakdown by county and
municipality where the tax was originally reported. This schedule must
also show the type tax (sales or use) and amount to be refunded.

The Department may also require other relevant information depending on the
facts and circumstances.

All refunds are subject to verification by audit, either before or after issuance.

**How Taxes Should Be Shown On Billings To Customers:**

**27.Q.** Are retailers required to show the state tax and the local tax separate from the
sales price on billings to their customers?

**A.** Both the state and local sales taxes are the liability of the retailer. Code Section
12-36-940 allows, but does not require, the retailer to include in the sales price the
amount of the sales tax.

The state and local use taxes are the liability of the purchaser. Code Section
12-36-1350 requires the retailer to "collect the use tax from the purchaser and
give to the purchaser a receipt showing the amount subject to the tax and the
amount of tax collected".

**Sales Involving State Sales Tax and Local Sales Tax.** A retailer making deliveries
in or into a local tax county is not required to separately show either the state sales
tax or the local sales tax from the sales price on billings to a customer. The
retailer, however, does have the option under Code Section 12-36-940 to
separately show the state sales tax and the local sales tax from the sales price.

**Sales Involving State Sales Tax and Local Use Tax.** A retailer that ships into a
local tax jurisdiction is not required to separately show the state sales tax from the
sales price. The retailer, however, does have the option under Code Section
12-36-940 to separately show the state sales tax from the sales price.

However, in collecting the local use tax, the retailer is required to separately show
the local use tax from the sales price on billings to a customer.

**Sales Involving State Use Tax and Local Use Tax.** A retailer that ships into a
local tax jurisdiction is required to separately show the state use tax and the local
use tax from the sales price on billings to a customer. The retailer is not required
to separate the two taxes. The retailer may just show a combined South Carolina
tax was collected.
Special Rules for the Catawba Indian Reservation and the Catawba Tribal Sales and Use Tax:

28.Q. Since the Catawba Tribal Sales and Use Tax is imposed as a result of the Catawba Indian Claims Settlement Act, are there any special rules for sales (deliveries) made on the Catawba Indian Reservation?

The application of either the State sales and use tax or the Catawba Tribal sales and use tax for sales (deliveries) made on the Catawba Indian Reservation are determined by the Catawba Indian Claims Settlement Act. The specific sales and use tax provisions can be found in Code Section 27-16-130(H). The Catawba Tribal sales and use tax expires on November 28, 2092.

Code Section 27-16-130(H) states:

(H) The Tribe, its members, and the Tribal Trust Funds are liable for the payment of all state and local sales and use taxes to the same extent as any other person or entity in the State, except as specifically provided as follows:

1. Purchases made by the Tribe for tribal government functions during ninety-nine years from the effective date of this chapter are exempt from state and local sales and use taxes.

2. Catawba pottery and artifacts made by members of the Tribe and sold on or off the Reservation by the Tribe or members of the Tribe are exempt from state and local sales and use tax.

3. During ninety-nine years from the effective date of this chapter, the sale on the Reservation of all other items, made on or off the Reservation, are exempt from state and local sales and use taxes but are subject to a special tribal sales tax levied by the Tribe equal to the state and local sales tax that would be levied in the jurisdiction encompassing the Reservation but for this exemption.

   a. The South Carolina sales and use tax laws, regulations, and rulings apply to the special tribal sales tax, and the special tribal sales tax must be administered and collected by the South Carolina Tax Commission.

   b. The South Carolina Tax Commission separately shall account for the special tribal sales tax, and the State Treasurer shall remit the special tribal sales tax revenues periodically to the Tribe at no cost to the Tribe.

   c. The tribal sales tax does not apply to retail sales occurring on the Reservation as a result of delivery from outside the Reservation when the gross proceeds of sale are one hundred dollars or less. If it does not apply, the state sales tax applies.
(d) The Tribe shall impose a tribal use tax on the storage, use, or other consumption on the Reservation of tangible personal property purchased at retail outside the State when the vendor does not collect the tax. However, use taxes collected by a vendor which is not located in the State are subject to state use taxes, and the use tax must be remitted to the State and not the Tribe. Use taxes not collected by the vendor and remitted to the State are subject to the tribal use tax and must be collected directly by the Tribe.

The following chart provides a summary of these provisions:

<table>
<thead>
<tr>
<th>Delivery on the Reservation From:</th>
<th>Type Tax Applicable</th>
<th>Administered and Collected By:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location On the Reservation</td>
<td>Tribal Sales Tax (Equal to Combined State and Local Rate)</td>
<td>Department of Revenue</td>
</tr>
<tr>
<td>Location Off the Reservation But in SC – Sales $100 or less</td>
<td>State Sales Tax (6%) (Local taxes would be applicable in these circumstances.)</td>
<td>Department of Revenue</td>
</tr>
<tr>
<td>Location Off the Reservation But in SC – Sales Over $100</td>
<td>Tribal Sales Tax (Equal to Combined State and Local Rate)</td>
<td>Department of Revenue</td>
</tr>
<tr>
<td>Location Off the Reservation and Outside the State – Seller Registered with DOR</td>
<td>State Use Tax (6%) (Local taxes would not be applicable in these circumstances.)</td>
<td>Department of Revenue</td>
</tr>
<tr>
<td>Location Off the Reservation and Outside the State – Seller Not Registered with DOR</td>
<td>Tribal Use Tax (Equal to Combined State and Local Rate)</td>
<td>Catawba Indian Tribe</td>
</tr>
</tbody>
</table>

**Maximum Tax Items:** For sales (deliveries) made on the Reservation of tangible personal property subject to the maximum tax provisions, the tribal sales and use tax rate is 5% in each county (since the state sales and use tax on maximum tax items is 5% and maximum tax items are exempt from all local sales and use taxes), but the tax may not exceed the maximum tax set forth in Code Section 12-36-2110.

**Casual Excise Tax Items:** Counties imposing a local sales and use tax that do not exempt casual excise tax items will impose the local tax on sales and purchases of (a) trailers that can be pulled by vehicles other than truck tractors, (b) sales of pole trailers and (c) sales of boat motors not attached to a boat at the time of sale. Therefore, for sales (deliveries) of these trailers and boat motors made on the Reservation within each county, the tribal sales and use tax rate will depend on the type of local tax imposed in the respective counties.

**Please note that the rate for the tribal sales tax and the tribal use tax may increase or decrease dependent upon whether the total state and local sales and use tax rates change in Lancaster county or York county in the future.**
For additional information concerning the Catawba Tribal Tax, see SC Revenue Ruling #98-18.

Note: The Department publishes a chart with the various types of local sales and use taxes collected by the Department and the exemptions allowed under each tax, including information concerning the Catawba Tribal Tax. As of the date of this document, SC Information Letter #09-8 contains the most recently published information; updated information will be published in new information letters on the Department’s website (http://www.sctax.org/Tax+Policy/Policy/salesIndex.htm) as warranted.

Other Information:

29.Q. Do the discount provisions for filing and paying timely (Code Section 12-36-2610) apply to a local sales and use tax?

   A. Yes.

30.Q. If the answer to question #29 is "yes", how is the discount amount(s) to be computed?

   A. The discount amount is to be computed by applying the appropriate discount rate to the total tax due on the return (the state tax combined with the local tax).

31.Q. Is a local sales and use tax to be considered in determining whether or not a taxpayer may be permitted to file a quarterly return?

   A. Yes. A local sales and use tax should be considered in determining whether or not a taxpayer may be permitted to file a quarterly return. In other words, the local tax should be added to the state tax liability.

32.Q. Do the penalty and interest provisions of Chapter 54 of Title 12 apply to a local sales and use tax?

   A. Yes.

33.Q. Are the penalties and interest to be applied to a local sales and use tax separately from the state tax?

   A. Yes. Penalties and interest are to be applied to a local sales and use tax separately from the state tax.

34.Q. Is a local sales and use tax to be considered in computing warrant costs, pursuant to Code Section 12-53-40?

   A. Yes.
35.Q. Are warrant costs shared with the counties?

   A. No. Warrant costs are collected from taxpayers for costs incurred by the State in collecting warrants and tax executions.

**Notification of Imposition of a Local Sales and Use Tax**

36.Q. When are those jurisdictions which approve a local tax to notify the Department that they have adopted a resolution to impose a local sales and use tax?

   A. The statutes and laws authorizing the various local sales and use taxes require a local jurisdiction that has approved an ordinance and/or a referendum to impose a local sales and use tax to notify the Department of Revenue by a specified date, depending on the type of local tax. Local jurisdictions seeking to impose a local sales and use tax should carefully review the statute authoring the tax for this information. Failure to notify the Department will delay the imposition of the tax.

Note: The Department publishes a chart with the various types of local sales and use taxes collected by the Department and the exemptions allowed under each tax, including cites to the statutes and laws imposing these taxes. As of the date of this document, SC Information Letter #09-8 contains the most recently published information; updated information will be published in new information letters on the Department’s website ([http://www.sctax.org/Tax+Policy/Policy/salesIndex.htm](http://www.sctax.org/Tax+Policy/Policy/salesIndex.htm)) as warranted.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Ray N. Stevens
Ray N. Stevens, Director

June 16, 2009
Columbia, South Carolina
TO: XYZ Corp.

SUBJECT: Reserved Recreational Vehicle Parking
(Accommodations Tax)

TAX ANALYST: Deana West

DATE: April 6, 1993


SC Revenue Ruling #87-1

SCOPE: A Private Letter Ruling is a temporary document issued to a taxpayer, upon request, and it applies only to the specific facts or circumstances related in the request.

Private Letter Rulings have no precedential value and are not intended for distribution.

Question:

Is the rental of recreational vehicle parking spaces at the ABC Raceway subject to the 7% sales tax on accommodations?

Facts:

ABC Raceway offers special reserved recreational vehicle parking for both of its racing weekends. The spaces are sold separately at a cost of $125 for each race weekend.

The reserved spaces are located in the central portion of the infield and are sold on a first-come, first-served basis. Recreational vehicles with reserved parking stickers are allowed to enter the track on Friday of each race weekend. Each space has an electrical hookup. Water and sewer hookups are not provided as part of the infield parking packages.

Customers renting reserved recreational vehicle spaces must also purchase individual infield admission tickets.
Discussion:

Code Section 12-36-920(A) imposes a tax on accommodations for transients and reads, in part:

A sales tax equal to seven percent is imposed on the gross proceeds derived from the rental or charges for any rooms, campground spaces, lodging, or sleeping accommodations furnished to transients by any hotel, Inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodgings, or sleeping accommodations are furnished to transients for a consideration.

In other words, a seven percent accommodations tax is imposed upon the gross proceeds derived from the rental or charges for accommodations furnished to transients if: (1) the type of accommodations furnished is a room, campground space, lodging, or sleeping accommodation, and (2) the accommodation is provided by a hotel, Inn, tourist court or camp, motel, campground, residence, or any place which furnishes sleeping accommodations for a consideration.

Since a recreational vehicle parking space is not a room, a lodging or a sleeping accommodation furnished by a hotel, Inn, or other place listed in the statutes, then it would be subject to the accommodations tax only if considered a campground space.

In addressing the question at hand, it is helpful to review the legislative history of Code Section 12-36-920. In 1976, the legislature added the words “campground spaces” and “campground” in the first sentence of the code section. Prior to this amendment, charges for campground spaces were not subject to the tax as transient accommodations.

SC Technical Advice Memorandum #90-5 addressed the applicability of the accommodations tax to short term rentals of wet and dry boat storage facilities. It concluded that “it does not appear to be the legislative intent to include boat slips or storage docks within the realm of the sales and accommodations tax. Boat slips and storage docks are analogous to campground spaces, and would require specific listing in Code Section [12-36-920], similar to ‘campground spaces’, to be subject to the sales and accommodations tax.”

Based upon the above discussion, parking spaces for recreational vehicles at the Darlington Raceway are not subject to the accommodations tax since the raceway is not a campground.

Conclusion:

The rental of reserved recreational vehicle parking spaces at the ABC Raceway is not subject to the 7% sales tax on accommodations imposed by Code Section 12-36-920.
SC INFORMATION LETTER #03-25

SUBJECT: Foreign Diplomats
(Sales and Use Tax)

DATE: November 18, 2003

SUPERSEDES: SC Revenue Informational Bulletin #03-2 and all previous documents and any oral directives in conflict herewith.

SC Revenue Procedure #03-1

SCOPE: An Information Letter is a written statement issued to the public by the Department to announce general information useful in complying with the laws administered by the Department. An Information Letter has no precedential value, and is not binding on the public or the Department.

Background:

The “Vienna Convention on Diplomatic Relations” and the “Vienna Convention on Consular Relations” treaties provide certain tax exemption privileges for foreign diplomats, consular officers, and staff members. The Office of Foreign Missions (“OFM”) of the United States Department of State is responsible for the diplomatic tax exemption program. The privileges are based on the principle of reciprocity, i.e., no privileges are granted to a foreign official in the United States unless United States Embassy and Consular personnel receive equivalent privileges in the foreign official’s country.

Exemption Cards:

The Office of Foreign Missions issues tax exemption cards to eligible foreign officials. There are two different types of tax exemption cards:

1. Cards for personal purchases. This card is used for exemption from state and local sales, restaurant, lodging, and similar taxes normally charged to a customer, and may be used only for the personal use of the bearer whose picture appears on the front of the card.
2. Cards for mission or official business. This card is issued to embassies, consulates, and international organizations for official purchases only and for the sole benefit of the mission identified on the face of the card. All purchases must be made in the name of the mission and paid for by mission check or credit card (not cash or personal check). Personal purchases are prohibited.

The tax exemption card contains the individual’s name, photograph, mission employed by, an expiration date, and a protocol identification number for identification purposes. Each card will have one of two different levels of sales and use tax exemption and is indicated by the color of the card and the written explanation in the colored box. A card with a blue stripe exempts the bearer from all state and local taxes nationwide on all personal and official purchases. A card with a yellow stripe allows a full tax exemption on all personal and official purchases except restricted categories or amounts identified on the face of the card. The tax exemption card, however, is not valid for exemption from taxes on telephones, other utilities, or gasoline purchases.

South Carolina Exemption and Vendor Recordkeeping Procedure:

Pursuant to the above referenced treaties and South Carolina Code Section 12-36-2120(1), sales to foreign officials are exempt from the sales and use tax in accordance with the type of card issued by the Office of Foreign Mission and the level of exemption authorized by that office. The exemption is only valid for the person whose photo appears on the card. Vendors may ask to see additional forms of identification, such as diplomatic I.D., driver’s license, etc.

Vendors making sales to foreign officials are required to record the protocol identification number from the tax exemption card on the invoice, bill of sale, cash register tape, or other written evidence of the transaction.

Attached are copies of information from the State Department that explain the tax exemption program in more detail and show samples of the tax exemption cards and the tax exemption provisions of each card.

New Procedure for Purchase of Vehicles:

Effective May 14, 2003, the Office of Foreign Missions informed the Department that the procedure and policy for the authorization of tax exemption on vehicle purchases by all diplomatic missions and members in the United States has changed. The following describes the new procedure.

Before the transaction is completed and tax exemption is allowed, each purchase of a vehicle must be cleared or denied for tax exemption by the Office of Foreign Missions. In instances where the diplomatic mission or agent is denied tax exemption the vendor should collect any tax
that is normally imposed at the time of purchase. Vendors when authorizing a diplomatic tax exemption on the purchase of a vehicle must follow these procedures:

1. The purchaser should present a mission tax exemption card, a personal tax exemption card, or a protocol identification card to the seller of the automobile. This proves to the seller that the purchase is indeed a diplomatic agent or is authorized to make official purchases on behalf of a diplomatic mission. The seller is required to retain a copy of this card.

Members of the United Nations, Organization of American States, World Bank, and the International Monetary Fund requesting a diplomatic tax exemption on the purchase of a vehicle must present their personal tax exemption card. This is the only documentation of exemption that may be accepted to authorize a diplomatic tax exemption for members of the United Nations.

2. When a mission or diplomatic agent plans to purchase a vehicle, the vendor must contact the Office of Foreign Missions for a determination of the tax exempt status of the purchaser. The telephone number that the seller should contact is 202-895-3563. If the purchase is being made outside the Washington, D.C. area, the purchaser may contact an Office of Foreign Missions Regional Office.

3. The Office of Foreign Missions will determine the tax exempt status of the purchaser and provide a letter to the vendor. The letter will state whether or not the purchaser is eligible for exemption from any sales or use tax imposed at the point of purchase by the jurisdiction in which the sale will occur. If sales and use taxes are imposed by the jurisdiction in which the sale is taking place, and the purchaser is determined not to be eligible for exemption from this tax, the purchaser is required to pay this tax to the vendor. If the purchaser pays a sales and use tax to the vendor, proof of this transaction must be presented to the Office of Foreign Missions. The amount of tax paid to the seller will then be credited against the surcharge imposed at the time of registration.
In 1982, Congress passed the Foreign Missions Act, 22 U.S.C. 4301-4316, which created a new office in the United States Department of State. This office is called the Office of Foreign Missions or OFM. The purpose of OFM is to serve the foreign diplomatic and consular communities stationed in the United States, and to control their activities. All services are based on the principle of reciprocity. In other words, no privileges are granted to a foreign official here unless United States Embassy and Consular personnel receive the equivalent privileges in that country.

OFM responsibilities include the Diplomatic Tax Exemption Program, which provides sales and use, occupancy, food, gas, and utility tax exemptions to eligible foreign officials on assignment in the United States. Tax exemption privileges for foreign diplomats, consular officers, and staff members are generally based on two treaties: the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations. These treaties have been ratified by the United States and are the supreme law of the land under Article VI of the Constitution.

Not all foreign missions and their personnel are entitled to tax exemption, because this privilege is based on reciprocity and not all foreign countries grant such tax exemption to American Embassies and personnel.

Why would a foreign country refuse to give an American Embassy a benefit that the Vienna Convention treaties require? The answer is that many foreign countries have a national tax called the Value Added Tax or VAT. This tax - which can be as much as fifteen to thirty percent - is included in the purchase price. Many foreign governments argue that the VAT is an indirect tax and is therefore permitted under the treaties. The State Department does not agree, and OFM links exemption from state and local taxes in the United States to exemption from the VAT in foreign countries. For this reason, some foreign missions and diplomats have no, or restricted, tax exemption privileges in the United States.

Those foreign officials who are entitled to tax exemptions are issued a Tax Exemption Card by OFM. For identification purposes, the individual's name, photograph, mission employed by, expiration date, and protocol identification number are provided on the card. There are two different types of Tax Exemption Cards: Personal and Official/Mission. Each card will have one of two different levels of sales and use tax exemption. (The Tax Exemption Card does not allow its holder to purchase gas or utilities free of tax.) The level and kind of exemption are designed to match the levels of exemption encountered by American
Embassies in foreign countries. The level of tax exemption is indicated by the color of the card and the written explanation in the colored box.

The cards with a blue stripe exempt the bearer from all state and local taxes nationwide. The cards with a yellow stripe require the bearer to purchase a minimum amount of goods or services before the bearer is entitled to tax exemption. The requirements may range from a specified purchase amount or could exempt certain sectors from exemption, with the most common exclusion being hotel taxes.

When a cardholder presents a yellow card, with a minimum purchase requirement, the total of all items purchased in a single transaction must equal or exceed the minimum purchase level. For example, if a foreign official has a card with a minimum purchase requirement of $150, he or she would be required to pay the sales or use tax on a bill of $145. However, the same individual would be exempt from all taxes on a bill of $160. Also, if two foreign officials are traveling together but they have separate rooms and separate bills, they cannot combine the bills under one total in order to qualify for tax exemption.

The Personal Tax Exemption Card is used at the point of sale for exemption from state and local sales, restaurant, lodging, and similar taxes normally charged to a customer. The Personal Card bears the photograph and identification of a duly accredited consulate, embassy, or eligible international organization employee who is entitled to the tax exemption privileges as stated on the card. This card is only for the personal use of the bearer whose picture appears on the front of the card.

The Mission Tax Exemption Card is used for official purchases of a foreign consulate or embassy. The Mission Card bears the photograph and identification of a consulate, embassy, or international organization employee who has been allowed official purchasing privileges for that office. This card is for official purchases only. All purchases must be made in the name of the mission and paid for by mission check or credit card (not cash or personal check). For example, the purchasing agent might use the card to buy office supplies or to book twenty hotel rooms for a visiting official delegation from that foreign country, providing the reservation is in the name of the Mission and the bill is paid for by a mission check or credit card. The Mission Tax Exemption Card is not transferable, and not to be used for personal purchases. (There are instances where a mission tax exemption cardholder would not have access to a personal tax exemption card.)
DIPLOMATIC TAX EXEMPTION PROGRAM

These are samples of the tax exemption cards issued by the U.S. Department of State to certain foreign government personnel and offices. The plastic cards, which are the size of credit cards and have a hologram, are valid nationwide and in the Commonwealth of Puerto Rico. Cards are used at the point of sale for exemption from state and local sales, restaurant, lodging, and similar taxes normally charged to customers. Some cards have restrictions on tax-free purchases. See explanations below. Tax exemption cards are not valid for exemption from taxes on telephones, other utilities, gasoline purchases or automobile purchases. Cards are not transferable; only the person whose photograph appears on the front side of card may use it.

Tax Exemption Cards for Personal Purchases

**United States Department of State**
**Personal Tax Exemption Card**
**Mission: Egypt**
**Expiration Date:** 03/10/85
**No:** 4000-0508-08
**Sex:** M
**DOB:** 01/01/43
**Diplomat, John Doe**
**Exempt from Sales Tax, Including Hotel**

**Blue Stripe**
Full tax exemption on all personal and official purchases.

**United States Department of State**
**Personal Tax Exemption Card**
**Mission: South Africa**
**Expiration Date:** 01/31/85
**No:** 0000-0508-08
**Sex:** F
**DOB:** 01/01/43
**Diplomat, Jane Doe**
**Exempt from Sales Tax, Including Hotel**

**Yellow Stripe**
Full tax exemption on all personal purchases and official purchases except restricted category(ies) identified on the face of the card.

For questions regarding the tax exemption program, contact your State Tax Authority. You may also contact the regional office of the Office of Foreign Missions located nearest you.

<table>
<thead>
<tr>
<th>City</th>
<th>Phone Number</th>
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<tbody>
<tr>
<td>Chicago</td>
<td>(312) 353-5762</td>
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<tr>
<td>Honolulu</td>
<td>(808) 522-8125</td>
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<tr>
<td>Los Angeles</td>
<td>(310) 235-6292</td>
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<tr>
<td>Miami</td>
<td>(954) 630-1146</td>
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<tr>
<td>New York</td>
<td>(212) 826-4500</td>
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<tr>
<td>San Francisco</td>
<td>(415) 744-2910</td>
</tr>
<tr>
<td>Washington, DC</td>
<td>(202) 895-3563</td>
</tr>
</tbody>
</table>

Tax Exemption Cards for Mission (Official) Business

**United States Department of State**
**Mission: Egypt**
**Expiration Date:** 03/10/85
**No:** 4000-0508-08
**Sex:** M
**DOB:** 01/01/43
**Diplomat, John Doe**
**Exempt from Sales Tax, Including Hotel**

**United States Department of State**
**Mission: South Africa**
**Expiration Date:** 01/31/85
**No:** 0000-0508-08
**Sex:** F
**DOB:** 01/01/43
**Diplomat, Jane Doe**
**Exempt from Sales Tax, Including Hotel**

**Reverse of both Mission and Personal Tax Exemption Cards**

**NOT TRANSFERABLE**
This card entitles bearer, whose photo appears on reverse, to nationwide exemption from state and local sales taxes, restaurant and similar taxes normally charged to customers. Vendor may ask for additional identification.

IF FOUND PLEASE RETURN TO:
Office of Foreign Missions
U.S. Department of State
3507 International Place, N.W.
Washington, D.C. 20008-3034

202-895-2583
Monday through Friday
Return Postage Guaranteed

Mission tax exemption cards are issued to embassies, consulates, and international organizations for official purchases only and for the sole benefit of the mission identified on the face of the card. All purchases must be made in the name of the mission and paid for by mission check or credit card (not cash or personal check). Personal purchases prohibited.

OFMs mailing address (which will be reflected on future editions of the card):
Office of Foreign Missions
U.S. Department of State
Washington, DC 20522-3303

Under the authority of the Foreign Missions Act, (22 USC 4301 et seq.), Tax Exemption Cards are issued to certain official personnel from foreign countries who are stationed in the United States while working as diplomats, consular officers, or staff members at foreign embassies and consulates, and other organizations such as the United Nations.

Tax exemption is a treaty obligation of the United States under Article VI of the Constitution. The United States is a party to various treaties and agreements which recognize diplomats as official, duly accredited representatives of foreign sovereign countries. Under international law, sovereign countries cannot impose certain taxes on accredited diplomats or other representatives of foreign countries.
ADMISSIONS TAX

Admissions tax must be collected by all places of amusement when an admission price has been charged. The tax is 5% of the paid admissions. If you operate a place of amusement, you must obtain an admissions tax license. There is no charge for the license. You may also be required to obtain a retail license. Examples of "places of amusement" are: nightclubs, college and professional sporting events, amusement parks, golf courses, miniature golf or putt putt courses, tennis courts, bowling alleys, water slides, movie theaters, musical concerts, health clubs, spas, gyms, swimming pools, skating rinks, baseball batting cages and craft shows.

Exemptions from the admissions tax are:

1. Stage plays or pageants in which only local or nonprofessional talent or players perform
2. Certain Junior American Legion athletic events
3. High school or grammar school athletic events
4. Admissions to the State Fair or county or community fairs
5. Admissions charged by eleemosynary and nonprofit organizations organized exclusively for religious, charitable, scientific or educational purposes or the presentation of performing artists by an accredited college or university (except athletic events of a college or university, and admissions to rides, places of amusement, shows, exhibits and other facilities at a circus, carnival or community fair, except when the proceeds are donated to a hospital)
6. Nonprofit public swimming pools
7. Hunting or shooting preserves
8. Privately-owned fish ponds or lakes
9. Circuses operated by nonprofit organizations organized exclusively for religious, charitable, scientific or educational purposes when the proceeds will be used for those same purposes
10. Properties or attractions named to the National Register of Historical Places
11. Classical musical performances of a nonprofit organization operated exclusively to promote classical music
12. Admissions to events sponsored by nonprofit organizations organized exclusively for religious, charitable, scientific, civic, fraternal or educational purposes, when the entire net proceeds are donated to an organization operated exclusively for charitable purposes
13. Admissions charged by nonprofit community theater companies, community symphony orchestras, county and community arts councils and other commissions and companies promoting the arts
14. Boats which charge a fee for pleasure fishing, excursion, sight-seeing and private charter
15. Admissions to physical fitness centers which provide only aerobics, calisthenics, weight-lifting equipment, exercise equipment, running tracks, racquetball, handball, squash or swimming pools for aerobics or lap swimming
16. For entry into the pit area of NASCAR sanctioned motor speedways or racetracks for drivers, crew members, or car owners where a participation fee is charged these persons
17. For ten years beginning July 1, 2008, one-half of the paid admissions to a motorsports entertainment complex which meet certain requirements
1. Is a license required for operating a place of amusement?

Yes, per Code Section 12-21-2440. The license may be obtained by completing application Form L-514. The license is free. Seasonal operators are issued a license and are required to file for those months in which the business is active. One-time events should be licensed. Taxpayers are required to file a return for a one-time event.

2. What is the admissions tax rate?

Section 12-21-2420 states, there must be levied, assessed, collected and paid upon paid admissions to places of amusement within this State a license tax of five percent. Please keep in mind that some counties and municipalities may have additional local hospitality or admissions fees or taxes imposed in their area.

3. How is the admissions tax calculated, on the gross or net proceeds?

The admissions tax is calculated on the paid admissions - the gross proceeds paid by the patrons. However, the tax does not apply to (a) any amount separately stated on the ticket of admission for the repayment of money borrowed for the purpose of constructing an athletic stadium or field by any accredited college or university; or (b) any amount of the charge for admission, whether or not separately stated, that is a fee or tax imposed by a political subdivision of the State. 12-21-2420.

*Note: Unless separately stated on the tickets provided to the patrons, the admissions tax is considered to be included in the charge to enter or use the place of amusement.*

4. Is the proper price charged at the door required to be on the admissions ticket?

Yes. Code Section 12-21-2520 states that an operator of a place of amusement shall sell or permit to be sold in his place of business any admission ticket without the price of admission printed thereon, nor shall he sell or permit to be sold any admission ticket at a price other than the price printed thereon. Provided, however, that upon written application to the Commission, the Commission may, in its discretion and for good cause, waive the requirements of this section.

5. Is there a bond requirement for admissions tax licensees?

No, however, the department may require any person who fails to remit tax or file a timely return for as many as two filing periods in a twelve month period to post a cash or surety bond. See Code Section 12-54-200.
6. How long is a licensee required to maintain ticket stubs?

Tickets must be maintained during the three year statute of limitations period, unless written permission is received from the department to destroy ticket stubs for a particular time period.

7. When does an admissions tax license expire?

The admissions tax license is a permanent license that does not expire. However, the license is only valid for the person to whom it was issued and for the place it was issued. In other words, it is not transferable.

8. If a place of amusement erroneously collects admissions tax from a patron, who is entitled to the refund?

The patron is the taxpayer under the law. As such, the refund must be issued to the patron and not the place of amusement unless the patron has assigned his right to the refund to the place of amusement. Supreme Court of SC Furman University v. Livingston, 244 S.C. 200, 136 S.E. 2D.254 (1964)

9. Must all places of amusements use tickets as the method of accounting for paid admissions?

Tickets must be used to account for paid admissions unless the department has authorized or approved other methods of accounting for paid admissions. Operators of places of amusements wishing to employ methods other than tickets should contact their local Taxpayer Service Center with a written request for waiver per Code Section 12-21-2520.

10. Are there any requirements for tickets used by a place of amusement?

All tickets must have the price of admissions printed on them and must be sold for the price printed on the ticket. These two requirements may be waived at the discretion of the department upon written application to the department. See Section 12-21-2520.

In addition, when the patron provides the ticket to the place of amusement upon entering the place of amusement, the ticket must be torn in half, approximately through the center, with the place of amusement retaining one half and returning the other half to the patron. See Section 12-21-2530.

11. How often must admissions tax returns be filed?

Sec. 12-21-2550 states the license tax imposed by this article is due and payable in monthly installments on or before the twentieth day of each month.
12. The admissions tax statute does not define the term amusement. What is a place of amusement?

A "place of amusement" is any enclosure or location consisting of an activity that occupies one's spare time, distracts the mind, relaxes, entertains or gives pleasure.

13. What are some examples of places of amusement (any enclosure or location consisting of an activity that occupies one's spare time, distracts the mind, relaxes, entertains or gives pleasure)?

The following list is not all inclusive, but is provided as a guide:

- nightclubs, lounges, or bars with a cover charge
- college and professional sporting events (football, basketball, baseball, or hockey games; golf tournaments, rodeos, car racing, polo, horse racing, etc.)
- amusement parks
- museums (PLR-88-13)
- golf courses (green fees, range fees, membership dues)
- tennis or racquetball courts
- miniature golf or putt-putt courses
- cruises that offer entertainment (i.e. bands, audience role participation, or plays)
- skating rinks or skate board parks
- bowling alleys
- water slides
- target, skeet, trap or sporting clay ranges
- movie theaters or movie peep show machines (Not subject to Type 1 or Type 2 COD licenses per Section 12-21-2720)
- paint ball or laser gun facilities
- music concerts
- go cart or car racing tracks to include pit passes
- promotional events such as boat shows, home shows, antique shows, gun and knife shows, and wildlife expositions (RR-89-8)
- parasail rides
- arts and crafts exhibitions
• miniature or slot car tracks
• baseball batting cages (TAM 90-8) (Not subject to Type 1 or Type 2 COD licenses per Section 12-21-2720)
• circus and fair entrance fees, rides and amusement charges
• flight and similar simulators
• Parade of Homes tours
• zoos

It should be noted that certain somewhat related charges are not subject to the admissions tax by Department interpretation.

• golf or tennis lessons from an instructor
• tournament entry fees (exclusive of the normal and customary charges to utilize the place of amusement, i.e. green or court fees)
• boat, carriage, helicopter, plane or bus rides for touring, charter, fishing, or excursion
• golf cart fees - subject to sales tax as rentals
• trail fees - fees charged by golf courses for someone using their own golf cart
• boat or jet ski rentals - subject to sales tax
• tanning beds - neither admissions or sales tax
• equestrian lessons

14. Are annual, quarterly, monthly, and other membership fees to country clubs, tennis clubs, golf clubs, and similar facilities subject to the admissions tax?

The answer to this question depends on whether the club or facility is a for-profit club or facility or a nonprofit club or facility.

**For-Profit Clubs or Facilities:** Annual, quarterly, monthly and other membership dues (except initiation fees as defined in Question #2) paid to a for-profit country club, including social membership dues, are subject to the admissions tax for all periods open under statute.

In addition, daily fees such as golf green fees, tennis court fees, driving range fees, pool fees, and other similar fees paid by members and guests to enter or use a facility of the club are subject to the admissions tax. Please see A-OAG-1 (Attorney General’s Opinion) in reference to golf driving range fees. There may be additional fees charged by country clubs to members and non-members, such as special assessment fees, fertilizer fees,
social dues, etc. These fees may also be subject to the tax, but must be considered on a case by case basis.

Other fees may also be subject to the tax, but must be considered on a case by case basis. For additional information, see SC Revenue Ruling #91-18; SC Private Letter Ruling #91-5; SC Technical Advice Memorandum #94-1; Commission Decision #90-41; Wildewood Country Club, Inc. v. South Carolina Tax Commission, Case No. 90-CP-40-5223, Court of Common Pleas, Richland County (1991); and Venture Management Inc. v. South Carolina Tax Commission, Case No. 80-CP-40-4157, Court of Common Pleas, Richland County (1981)

**Nonprofit Clubs and Facilities**: Memberships to certain nonprofit organizations are exempt under Code Section 12-21-2420(4). That section exempts from the admissions tax any charge made to any member of a nonprofit organization or corporation for the use of the facilities of the organization or corporation of which he is a member.

If a club is operated by a nonprofit organization, then annual, quarterly, monthly and other membership dues paid to the nonprofit organization for use of its facilities are not subject to the admissions tax. Daily fees such as golf green fees, tennis court fees, driving range fees, pool fees, and other similar fees paid by members would also not be subject to the admissions tax if the club is operated by a nonprofit organization. However, charges such as golf green fees, tennis court fees, driving range fees, pool fees, and other similar fees paid by or for guests to enter or use a facility of the club are subject to the admissions tax. Other fees charged to guests may also be subject to the tax, but must be considered on a case by case basis.

For information to determine if an organization is a nonprofit organization, see Columbia Country Club v. Livingston, 252 S.C. 490, 167 S.E. 2D 300 (1969); Commission Decisions #93-72 and #93-74; and Commission Decision #93-68.

**15. Are initiation fees to country clubs, tennis clubs, golf clubs, and similar facilities where membership dues are taxable subject to the admissions tax?**

No, provided the initiation fee is a one-time (nonrecurring) charge paid as a prerequisite to joining a golf or similar club. An initiation fee should not allow a person to utilize the facilities of the club without the payment of a recurring charge (membership dues). In other words, a one-time charge that is a substitute for recurring membership dues is not an initiation fee.

**16. Are promotional tickets subject to the admissions tax?**

Yes. The exchange of tickets to a place of amusement for radio or television advertising, or other promotions, constitutes a "paid admissions" subject to the admissions tax, pursuant to Code Section 12-21-2420.
17. If an admissions is provided free of charge (no consideration of any kind), is admissions tax due?

No. The tax only applies to paid admissions.

18. Are admissions to arts and craft shows, home shows, boat and similar shows subject to the admissions tax?

Yes. Since a "place of amusement" is any enclosure or location consisting of an activity that occupies one's spare time, distracts the mind, relaxes, entertains, or gives pleasure (See SC Revenue Ruling #89-8), charges for admissions to antique, craft, boat, home, gun, car, recreational vehicles, sportsman and similar shows, when open to the public, are subject to the admissions tax.

19. Is the admissions tax license transferable to another party?

No. Code Section 12-21-2460 states: No license issued permitting the operation of a place of amusement shall be transferable and any license issued to any person who shall afterwards retire from business shall be null and void. A separate license shall be required for each separate place of amusement.

20. Can a licensee use two $2.00 tickets if he is charging a $4.00 admissions fee?

No. Code Section 12-21-2520 states that an operator of a place of amusement shall sell or permit to be sold in his place of business any admission ticket without the price of admission printed thereon, nor shall he sell or permit to be sold any admission ticket at a price other than the price printed thereon. Provided, however, that upon written application to the Commission, the Commission may, in its discretion and for good cause, waive the requirements of this section.

21. What are the guidelines for a licensee using alternative methods in lieu of tickets and how are these methods authorized?

Per Code Section 12-21-2520, an operator of a place of amusement may make a written request to use a system other than tickets. A representative from the local Taxpayer Service Center will go on premise and inspect the alternative system. The essential components are: 1) a sealed sequential counter which accumulates consecutive numbers, 2) a sealed counter which accumulates total cash receipts added by the machine, 3) the counters must be sealed in a fashion that will be maintained only by a qualified service mechanic from the manufacturing company, 4) the local district office must be notified by the manufacturing company when either of the counters are being reset, 4) tape stubs must show the establishments name, the total admission charged, the date paid and the consecutive serial number produced. An inspection must be made before final approval and once approved a letter will be written authorizing its use.
22. Are purchasers of temporary alcoholic beverage licenses required to obtain an admissions tax license for a one time event?

Yes. If charges are made to enter into or use a place of amusement, then an admissions tax license is required.

23. Are additional charges made for entertainment after the original cover charge has been paid also subject to the tax?

Yes

24. Are there any exemptions from the admissions tax?

Yes, the following is a summary of the exemptions allowed under Section 12-21-2420:

(a) any stage play or any pageant in which wholly local or nonprofessional talent or players are used;

(b) any athletic contest in which a junior American Legion athletic team is a participant unless the proceeds inure to any individual or player in the form of salary or otherwise;

(c) any high school or grammar school game;

(d) the State Fair or any sanctioned county fair or sanctioned community fair; provided, this exemption only applies to the general gate admissions and does not extend to paid admissions to rides, places of amusement, shows, exhibits, and other fair facilities within the fair;

(e) any event operated by a nonprofit organization organized and operated exclusively for religious, charitable, scientific, or educational purposes; provided, this exemption does not extend to paid admissions to an athletic event of an institution of learning above the high school level or to paid admissions to rides, places of amusement, shows, exhibits, and other carnival or fair facilities;

(f) any carnival, circus, or community fair and its rides, places of amusement, shows, exhibits, and other carnival or fair facilities operated by a nonprofit organization organized and operated exclusively for religious, charitable, scientific, or educational purposes when the proceeds of the carnival, circus, or community fair are donated to a hospital;

(g) any facility of a nonprofit organization; provided, the exemption only applies to paid admissions paid by a member of the nonprofit organization for the use of the facilities of the nonprofit organization of which he is a member;
(h) any presentation or performance of a performing artist by an accredited college or university;

(i) any nonprofit public bathing places;

(j) any hunting or shooting preserve;

(k) any privately owned fish ponds or lakes;

(l) any circus operated by a nonprofit organization organized and operated exclusively for religious, charitable, scientific, or educational purposes when the proceeds derived from admissions to the circus shall be used exclusively for religious, charitable, scientific or educational purposes;

(m) any property or attraction which has been named to the National Register of Historical Places provided the purpose of the admissions is to view a building or object on the National Register of Historical Places;

(n) any classical music performance of a nonprofit organization organized and operated exclusively to promote classical music;

(o) any event, unless it is specifically taxed under Section 12-21-2420(4), sponsored and operated exclusively by a nonprofit organization organized and operated exclusively for religious, charitable, scientific, civic, fraternal, or educational purposes when the net proceeds derived from the paid admissions to the event are immediately donated to a nonprofit organization organized and operated exclusively for charitable purposes. The term "net proceeds" shall mean the portion of the gross admissions proceeds remaining after necessary expenses of the event have been paid. This exemption shall not apply to an event in which the nonprofit organization receives a percentage of the gross proceeds or a stated fixed sum for the use of its name in promoting the event;

(p) any event of a nonprofit community theater company, nonprofit community symphony orchestra, county or community arts council or commissions, or any other such company engaged in promotion of the arts;

(q) any boat which charges a fee for pleasure fishing, excursion, sight-seeing and private charter.

(r) any physical fitness center subject to the provisions of Chapter 79 of Title 44, the Physical Fitness Services Act, that provides only the following activities or facilities:

   i. aerobics or calisthenics;

   ii. weightlifting equipment;
iii. exercise equipment;
iv. running tracks;
v. racquetball;
vi. swimming pools for aerobics and lap swimming; and
vii. other similar items approved by the department.

The entire admission charge of a physical fitness center which provides any other activity or facilities is subject to the tax imposed by this article.

25. Must a person apply for an exemption?

No. Application for exemption is not required by law; however, it is recommended that an organization apply for and obtain an exemption certificate prior to the event. The application for an exemption certificate is Form L-2068.

26. If a nonprofit organization purchases tickets to a show (e.g. A charity purchases tickets to a Christmas show and provides the tickets to underprivileged children), is the purchase exempt from the tax?

No. The exemption statute does not provide an exemption for tickets sold to charities and other nonprofit organizations.

27. Are admissions charges to the South Carolina State Fair taxable?

No. Gate admissions to the State Fair are exempt under Code Section 12-21-2420(3). Charges for rides, exhibits, and other amusements within the State Fair are subject to the tax.

28. Are admissions charges to city or state owned museums subject to the tax?

Yes. The taxability of admissions to the Naval Museum in Charleston is addressed in A-OAG-10. This museum is owned by a state agency and the admissions were deemed to be taxable. Admissions to a museum located on property that is listed in the National Historical Register may also be subject to the tax. Under Code Section 12-21-2420 (9) admissions to properties listed on the National Historical Register are exempted from the tax. A determination must be made as to what is the primary purpose for visiting the facility.

29. Is there an admissions tax due on excursion boat entrance fees?

No. See Technical Advice Memorandum #95-2. Fees paid for sight-seeing tours conducted by carriage, bus, helicopter, airplane, trolley, boat, and other similar modes are not subject to the admissions tax imposed under code section 12-21-2420. It should be noted that the admissions tax applies to charges for admission to a carriage, bus, trolley, etc., when
admission to the vehicle is for entertainment, dancing, or drinking in a social environment, and not solely for sight-seeing.

30. Are all entrance fees to places listed on the National Register of Historical Places exempt?

No. If the admissions fee is to see a place or object on the National Register of Historical Places, then the admissions fee is exempt. If the admissions fee is to see objects not on the National Register of Historical Places but which happen to be located in a building on the National Register of Historical Places, then the admissions fee is subject to the tax. Please see S.C. Private Letter Ruling #88-13 - Admissions Fees- State Museum- for your review.

31. Are certain county hospitality taxes/fees imposed by counties or municipalities included in the gross measure of tax?

No. Refer to Code Section 12-21-2420. The last provision of this section, noted as (b), states that any part of an admissions charge that represents a fee imposed by a political subdivision of this state is not subject to the admissions tax.

32. Are the entrance fees to a bingo game taxable?

No. Code Section 12-21-4270 states that the sale of bingo cards and entrance fees provided by Section 12-21-4030 are not subject to the admissions tax provided by Section 12-21-2420.

33. Are gross receipts from a bingo game taxable?

No. Section 12-21-4030(c) states that the entrance fees collected pursuant to Subsection (b) are not required to be remitted as taxes and are not included in gross proceeds for purposes of the prize limitations provided in Section 12-21-4000 (12)(a). Section 12-21-4270 states, the sale of bingo cards and entrance fees provided by Section 12-21-4030 are not subject to the admissions tax provided by Section 12-21-2420."

34. Are entrance fees to a beauty pageant taxable?

Yes, unless otherwise exempt.

35. Would entrance fees to a stage play that hired a professional actor to perform at a particular event be exempt under Code Section 12-21-2420(1)?

No, unless otherwise exempt. Code Section 12-21-2420(1) only exempts admissions to any stage play or any pageant in which wholly local or nonprofessional talent or players are used. Therefore, if a professional actor is hired or otherwise used for a play or pageant, then the exemption is not applicable and the entrance fee to the play or pageant would be subject to the admissions tax.
36. Would the professional actor have to be paid for the event to be taxable?

No. If the actor is a professional, the exemption does not apply regardless of whether the actor is paid or not paid for the particular play or pageant. 12-21-2420 (1)

37. Does wholly local or non-professional talent include directors or producers per the exemption in the code?

No. Section 12-21-2420 (1) does not address anyone other than the talent involved.

38. Do art shows fall under the exemption in the code?

No, unless the show has a specific exemption under Code Section 12-21-2420, paid admissions to art shows are taxable under the admissions tax law.

39. Is a physical fitness center run by a government agency exempt from the tax?

No. The exemption in Code Section 12-21-2420(14) only applies to a physical fitness center subject to the provisions of Chapter 79 of Title 44, the Physical Fitness Services Act and government entities are not subject to the Physical Fitness Services Act.

40. If a physical fitness center has a restaurant inside would they still be exempt per the code?

No. Code Section 12-21-2420 (14) states that for a physical fitness center to be exempted it may only provide the following activities or facilities:

(a) aerobics or calisthenics;
(b) weightlifting equipment;
(c) exercise equipment;
(d) running tracks;
(e) racquetball;
(f) swimming pools for aerobics and lap swimming; and
(g) other similar items approved by the department.

S.C. Revenue Ruling #92-1 states that for a nonlisted activity or facility to be exempt it must be similar, support, or incidental to the exempt activities.

41. How is a location placed on the National Register of Historical Places?

Nomination to the National Register of Historic Places begins with the filing of a Preliminary Information Form (PIF) with the South Carolina Department of Archives and History at 8301 Parklane Road, Columbia, South Carolina, 29223-4905. The PIF may be obtained by calling
All nominations undergo scrutiny in a process that begins with a preliminary review by the State Historic Preservation Office, continues with a review by the South Carolina State Board of Review, and ends with a review by the National Register Office of the National Park Service. For more detailed information on the nomination process, visit the website of the South Carolina Department of Archives and History at http://scdah.sc.gov

42. If a concert is held on property listed on the national register of historical places, is the event taxable?

Yes.

43. Is a musical or vocal concert performed at, and sponsored by, a church or a place of worship where an entrance fee is charged subject to the tax?

No per Code Section 12-21-2420(4) which exempts admissions charged by any eleemosynary or nonprofit corporation organized exclusively for religious, charitable, scientific, or educational purposes. Also A-OAG-2 states that admissions charged by a nonprofit or eleemosynary organization are exempt, but that if it is determined that the nonprofit organization is merely a front for individuals seeking to evade the admissions tax, then the tax should be charged.

44. What is the definition of net proceeds as used in Code Section 12-21-2420(11)?

Section 12-21-2420(11) defines the term "net proceeds" to mean "the portion of the gross admissions proceeds remaining after necessary expenses of the event have been paid". Therefore, the statute requires that each event must be accounted for separately, and the net proceeds of that particular event must be accounted for and distributed to a charitable organization within a reasonable period of time depending on the circumstances and facts of the situation.

45. What is the definition of charitable purposes as used in Code Section 12-21-2420(11)?

See Revenue Ruling # 91-5. It states, charitable purposes, which include the accomplishment of objectives which are beneficial to (the) community or area, ...(and) are generally classified as: relief of poverty; advancement of education; advancement of religion; protection of health; governmental and municipal purposes; and other varied purposes the accomplishment of which is beneficial to (the) community. (This must be determined on a case by case basis; however, the applicable regulations and rulings of the Internal Revenue Service with respect to IRC Section 501 (c)(3) should provide some guidance.) (3) The events and charges must not be one specifically taxed under Code Section 12-21-2420 (4). Such events and charges are also subject to the tax under Code Section 12-21-2420 (11).
46. **What is the definition of immediately donated as used in Code Section 12-21-2420(11)?**

The department defines the word "immediately" for purposes of the exemption found in Section 12-21-2420(11) to mean "within a reasonable period of time depending on the circumstances and facts of the situation". See SC Revenue Ruling #91-5.

47. **If a beauty pageant awards scholarships does this make the event exempt?**

The statute, Code Section 12-21-2420, does not provide a specific exemption for beauty pageants. However, charges for admissions to the beauty pageant may be exempt from the admissions tax if:

(a) the pageant is one in which wholly local or nonprofessional talent or players are used (Code Section 12-21-2420(1));

(b) the pageant is operated by an eleemosynary and nonprofit corporation or organization organized exclusively for religious, charitable, scientific or educational purposes (Code Section 12-21-2420(4));

(c) the pageant is sponsored and operated exclusively by eleemosynary, nonprofit corporations or organizations organized exclusively for religious, charitable, scientific, civic, fraternal, or educational purposes when the net proceeds derived from admissions to the events shall be immediately donated to an organization operated exclusively for charitable purposes. The term "net proceeds" shall mean the portion of the gross admissions proceeds remaining after necessary expenses of the event have been paid. This item shall not apply to an event in which the above organizations receive a percentage of gross proceeds or a stated fixed sum for the use of its name in promoting the event. (Code Section 12-21-2420(11))

For additional information on this matter with respect to the exemption found in Code Section 12-21-2420(4), see Commission Decision L-D-40.

48. **If coaches are paid in an athletic contest for a Junior American Legion team does it negate the exemption per the code?**

No. Paid coaches like umpires would be considered a normal expense of the game.

49. **If proceeds from admissions charges pays for a player or a team to go to another event, does that constitute proceeds inuring to a player or a team?**

No. Per Section 12-21-2420 (2) states, A...unless the proceeds inure to an individual or player in the form of salary or otherwise
50. Does the exemption for Junior American Legion teams extend to Little League and Pee Wee teams?

No. the exemption applies to Junior American Legion teams only. Little League and Pee Wee teams may possibly qualify for exemption under 12-21-2420 (4) or (11).

51. Does the exemption to high school games or grammar school games (12-21-2420)(3) refer to teams from private and/or public schools?

It applies to both public and private schools.

52. Is an event (game) sponsored by a high school or grammar school but is using athletes other than students subject to the tax?

Yes. There is no exemption to the school for any game or event sponsored by a high school or grammar school but using athletes or performing artist other than students. However, the performing artist or athletes themselves may possibly qualify for an exemption under section 12-21-2420. One example of this would be if a high school or grammar school sponsors a play where nonprofessional local talent other than students are used. Under Section 12-24-2420 (1), the school would not qualify for an exemption but the performers could.

53. With respect to the exemption under Section 12-21-2420(3) - (the State Fair or any sanctioned county fair or sanction community fair; provided, this exemption only applies to the general gate admissions and does not extend to paid admissions to rides, places of amusement, shows, exhibits, and other fair facilities within the fair), what is required for an event to be sanctioned?

A fair must be sponsored by a public association or group. A-OAG-8.

54. Does the exemption stated in Code Section 12-21-2420 (4) apply to state, county or other governmental entities, specifically colleges?

No. Code Section 12-21-2420(4) states exempts ...admissions charged by any eleemosynary and nonprofit corporation organized exclusively for religious, charitable, scientific, or educational purposes... In the Court case of York County Fair Association v. S.C. Tax Commission there was a definition of two basic types of corporations; public and private. A public corporation is created for public purposes only and is referred to as a body corporate and politic. A private corporation is the only one which may be for profit or eleemosynary and nonprofit.
SECTION 12-21-2410. Definitions.

For the purpose of this article and unless otherwise required by the context:

1) The word "admission" means the right or privilege to enter into or use a place or location;
2) The word "place" means any definite enclosure or location; and
3) The word "person" means individual, partnership, corporation, association, or organization of any kind whatsoever.

SECTION 12-21-2420. Imposition of tax; rate; exemptions; payment, collection, and remittance; disposition of revenues.

There must be levied, assessed, collected, and paid upon paid admissions to places of amusement within this State a license tax of five percent. The license tax may be listed separately from the cost of admission on an admission ticket. However, no tax may be charged or collected:

1) On account of any stage play or any pageant in which wholly local or nonprofessional talent or players are used;
2) On admissions to athletic contests in which a junior American Legion athletic team is a participant unless the proceeds inure to any individual or player in the form of salary or otherwise;
3) On admissions to high school or grammar school games or on general gate admissions to the State Fair or any county or community fair;
4) On admissions charged by any eleemosynary and nonprofit corporation or organization organized exclusively for religious, charitable, scientific, or educational purposes; or the presentation of performing artists by an accredited college or university; provided, that the license tax herein levied and assessed shall be collected and paid upon all paid admissions to all athletic events of any institution of learning above the high school level; provided, however, that carnivals, circuses, and community fairs operated by eleemosynary or nonprofit corporations or organizations organized exclusively for religious, charitable, scientific, or educational purposes shall not be exempt from the assessment and collection of admissions tax on charges for admission for the use of or entrance to rides, places of amusement, shows, exhibits, and other carnival facilities, but not to include charges for general gate admissions except when the proceeds of any such carnival, circus, or community fair are donated to a hospital; provided, further, that no admission tax shall be charged or collected by reason of any charge made to any member of a nonprofit organization or corporation for the use of the facilities of the organization or corporation of which he is a member.
5) On admissions to nonprofit public bathing places;
6) On admissions to any hunting or shooting preserve;
7) On admissions to privately owned fish ponds or lakes; and
8) On admissions to circuses operated by eleemosynary, nonprofit corporations or organizations organized exclusively for religious, charitable, scientific, or educational purposes when the proceeds derived from admissions to the circuses shall be used exclusively for religious, charitable, scientific or educational purposes.
9) On admissions to properties or attractions which have been named to the National Register of Historical Places.
10) On admissions charged to classical music performances of a nonprofit or eleemosynary corporation organized and operated exclusively to promote classical music.
11) On admissions to events other than those events enumerated in item (4) of this section, sponsored and operated exclusively by eleemosynary, nonprofit corporations or organizations organized exclusively for religious, charitable, scientific, civic, fraternal, or educational purposes when the net proceeds derived from admissions to the events shall be immediately donated to an organization operated exclusively for charitable purposes. The term "net proceeds" shall mean the portion of the gross admissions proceeds remaining after necessary expenses of the event have been paid. This item shall not apply to an event in which the above organizations receive a percentage of gross proceeds or a stated fixed sum for the use of its name in promoting the event.
12) On admissions charged by nonprofit or eleemosynary community theater companies or community symphony orchestras, county and community arts councils and departments and other such companies engaged in promotion of the arts.
13) On admissions to boats which charge a fee for pleasure fishing, excursion, sightseeing and private charter.
14) On admissions to a physical fitness center subject to the provisions of Chapter 79 of Title 44, the Physical Fitness Services Act, that provides only the following activities or facilities:

   a) aerobics or calisthenics;
   b) weightlifting equipment;
   c) exercise equipment;
   d) running tracks;
   e) racquetball;
   f) swimming pools for aerobics and lap swimming; and
   g) other similar items approved by the department.

The entire admission charge of a physical fitness center which provides any other activity or facilities is subject to the tax imposed by this article. Physical fitness facilities or centers of the State of South Carolina and any of its political subdivisions which are exempt from the Physical Fitness Services Act, pursuant to Section 44-79-110 and, therefore, subject to the admissions tax under this article
are nevertheless exempt from the admissions tax if they meet other requirements of this subsection.

15) for entry into the pit area of NASCAR sanctioned motor speedways or racetracks for drivers, crew members, or car owners where a participation fee is charged these persons by NASCAR, or by the speedway or racetrack, where a charge to these persons is made on a per event basis for entry into the pit area, or where a combination of annual and per event charges to these persons is made for entry into the pit area.

16) The tax imposed by this section must be paid by the person or persons paying the admission price and must be collected and remitted to the South Carolina Department of Revenue by the person or persons collecting the admission price. The tax imposed by this section does not apply to:

   a) any amount separately stated on the ticket of admission for the repayment of money borrowed for the purpose of constructing an athletic stadium or field by any accredited college or university; or
   b) any amount of the charge for admission, whether or not separately stated, that is a fee or tax imposed by a political subdivision of the State. The revenue derived from the provisions of this section from fishing piers along the coast of South Carolina is allocated for use of the Commercial Fisheries Division of the Department of Natural Resources.

SECTION 12-21-2425. Motorsports entertainment complex admissions license tax exemption.

A. In addition to the exemptions allowed from the admissions license tax imposed pursuant to Section 12-21-2420 of the 1976 Code, there is also exempt from that tax for ten years beginning July 1, 2008, one-half of the paid admissions to a motorsports entertainment complex.

B. For purposes of the exemption allowed by this section, a motorsports entertainment complex means a motorsports facility, and its ancillary grounds and facilities, that satisfies all of the following:

   1) has at least sixty thousand fixed seats for race patrons;
   2) has at least three scheduled days of motorsports events, and events ancillary and incidental thereto, each calendar year that are sanctioned by a nationally or internationally recognized governing body of motorsports that establishes an annual schedule of motorsports events;
   3) engages in tourism promotion.
SECTION 12-21-2430. Certain ponds are not amusements.

No private pond shall be declared an amusement for tax purposes. But this section shall not apply to a pond stocked with fish from a State or Federal hatchery.

SECTION 12-21-2440. Application for license for place of amusement.

Before engaging in business every person operating a place of amusement within the State subject to the tax imposed by this article shall file with the department an application for a permanent license permitting him to engage in the business. The application for the license must be filed on blanks to be furnished by the department for that purpose and shall contain a statement including the name of the individual, the partnership, and each individual partner, or the corporation filing the application, the post-office address, and the nature of the business.

SECTION 12-21-2450. Issuance and display of license.

Upon receipt of an application for a license to operate a place of amusement as set forth in this article the department shall issue to the applicant a license permitting him to operate such place of amusement without cost to the applicant. Such license shall be displayed at all times at or in such place of amusement in some conspicuous place easily seen by the public.

SECTION 12-21-2460. Licenses shall not be transferable; separate licenses for each place.

No license issued permitting the operation of a place of amusement shall be transferable and any license issued to any person who shall afterwards retire from business shall be null and void. A separate license shall be required for each separate place of amusement.

SECTION 12-21-2470. Penalties for operation without license.

If any person operates a place of amusement for which a license is required without having first secured the license and posted it in accordance with the provisions of this article he shall be guilty of a misdemeanor and, upon conviction, fined not less than twenty dollars nor more than one hundred dollars or imprisoned not less than ten days nor more than thirty days. Each day that such business is operated shall constitute a separate offense.

SECTION 12-21-2490. Notice of license revocation and appeal therefrom.

The department shall mail written notice of the revocation of the license or shall otherwise serve written notice thereof upon the person affected thereby and within ten days after the mailing of such notice or of service otherwise upon the person whose license has been revoked such person may appeal from the decision of the department
thereon to the court of common pleas in the county in which he is licensed to carry on the business. Within ten days after the service of notice of revocation of license as provided in this section, and not thereafter, the person feeling aggrieved thereby and desiring to appeal shall serve upon the department a written notice of intention to appeal to the court of common pleas and within thirty days after the service of the notice on the department he shall serve upon the department his exceptions or objections to the revocation of the license.

SECTION 12-21-2500. Hearing on appeal; supersedes; costs and disbursements.

The hearing before the circuit judge shall be had upon the exceptions and objections so served upon the department and the case shall be disposed of as provided by law for appeals from the courts of magistrates. Or, if the circuit judge should decide that the ends of justice would be better attained, he may hear the full controversy de novo and render judgment in accordance with the law and facts. Serving notice of appeal upon the department shall not act as a supersedes unless the appellant shall file with the department a good and sufficient bond to be approved by the department, conditioned upon the faithful observance of the requirements of this article and for the payment of any costs that may be lawfully taxed. And the costs and disbursements shall be the same as are provided in cases of appeals to the circuit courts from magistrates' courts.

SECTION 12-21-2520. Price of admission shall be printed on ticket.

No operator of a place of amusement shall sell or permit to be sold in his place of business any admission ticket without the price of admission printed thereon, nor shall he sell or permit to be sold any admission ticket at a price other than the price printed thereon. Provided, however, that upon written application to the department, the department may, in its discretion and for good cause, waive the requirements of this section.

SECTION 12-21-2530. Method of collecting tickets; exception for season or subscription tickets.

As each patron is admitted to a place the paid admissions to which are subject to the tax imposed by Section 12-21-2420, his ticket shall be collected and immediately torn in two parts, approximately through the center, one half given to the patron and the other half retained by the ticket taker. The provisions of this section shall not apply to season tickets or tickets for a series of admissions issued on account of subscription.

SECTION 12-21-2540. Penalties for use of altered or counterfeit tickets or re-use of tickets.

A. It is unlawful for a person to:

1) alter, restore, or otherwise prepare in any manner an admission ticket with intent to use or cause it to be used after it has already been used;
2) knowingly or willfully buy, sell, offer for sale, or give away a restored or altered ticket to a person;  
3) knowingly use a restored or altered ticket or have in his possession an altered or restored ticket, which has been previously used for the purpose for which it was originally intended; or  
4) prepare, buy, sell, offer for sale, or have in his possession a counterfeit ticket.

B. A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than two years, or both.

SECTION 12-21-2550. Tax payable monthly; failure to make correct return or failure to file.

A. The license tax imposed by this article is due and payable in monthly installments on or before the twentieth day of each month. A person liable to the tax shall make a true and correct return to the department, in such form as it prescribes, showing the number and prices of admissions during the previous month, and remit the tax with the return.

B. If a person fails to make a true and correct return or fails to file the return, the department shall make an estimate of the tax liability from the best information available, and issue a proposed assessment for the taxes, including penalties and interest.

SECTION 12-21-2575. Methods of accounting for admissions other than tickets.

In lieu of the issuance of tickets as provided for in this article, the department may authorize or approve other methods of accounting for paid admissions.
SC REVENUE RULING #88-11

SUBJECT: Promotional Tickets
(Admissions Tax)

EFFECTIVE DATE: Applies to all periods open under statute


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:

Is the exchange of tickets to a place of amusement for radio and television advertising, or other promotions, "paid admissions" subject to the tax, pursuant to Code Section 12-21-2420?

Facts:

A company sponsoring an event will exchange tickets for radio and television advertising. Tickets will also be exchanged for other promotional purposes.

Discussion:

The issue is whether or not the exchange of tickets for services constitutes a "paid admissions", subject to the tax.
Code Section 12-21-2410 reads:

For the purpose of this article and unless otherwise required by the context:

(1) The word "admission" means the right or privilege to enter into or use a place or location;

(2) The word "place" means any definite enclosure or location; and

(3) The word "person" means individual, partnership, corporation, association or organization of any kind whatsoever. (emphasis added)

Code Section 12-21-2420 reads, in part:

There shall be levied, assessed, collected and paid upon all paid admissions to all places of amusement within this State a license tax of...four percent....

*     *     *     *

The tax imposed by this section shall be paid by the person or persons paying such admission price.....

In summary, the tax is upon "all paid admissions" and the person paying the admission, whether that person is an individual, a partnership, or corporation, is the taxpayer with respect to the tax.

In addition, an Internal Revenue Service Revenue Ruling, 64-142, 1964-1 (Part 1) CB 397, with respect to the federal admissions tax (repealed 12/31/65), states:

An organization conducts sporting events to which tickets of admission are sold to the general public at established prices. Occasionally, the organization issues tickets to radio and television stations in exchange for spot announcements and other promotional services. Similarly, tickets are issued to newspaper companies in exchange for advertising space.

Held, the excise tax on amounts paid for admissions to any place, imposed by Section 4231(1) of the Internal Revenue Code of 1954, applied to the full established price of the tickets exchanged in the manner described (subject to the one dollar exclusion provided in that section), since these transactions are deemed to be sales of the tickets for a consideration.

The federal admissions tax "was based on 'the amount paid for admissions to any place.'" 26 RIA Federal Tax Coordinator [Paragraph] W-11019 (emphasis added)

In summary, the payment for an admissions to a place of amusement can be in money, goods or services.
Conclusion:

The exchange of tickets to a place of amusement for radio or television advertising, or other promotions, constitutes a "paid admissions" subject to the admissions tax, pursuant to Code Section 12-21-2420.

SOUTH CAROLINA TAX COMMISSION

s/S. Hunter Howard, Jr.  
S. Hunter Howard, Jr., Chairman

s/A. Crawford Clarkson, Jr.  
A. Crawford Clarkson, Jr., Commissioner

Columbia, South Carolina  
September 21,____, 1988
SC REVENUE RULING #94-3

SUBJECT: Paid Admissions
(Admissions Tax)

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

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


SC Revenue Procedure #93-6

SCOPE: Revenue Ruling is the Department of Revenue's official interpretation of how laws administered by the Department are to be applied to a specific issue or a specific set of facts, and applies to 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.

Questions:

1. Is revenue from paid admissions reported to the Department of Revenue ("Department") on the admissions tax return for the month in which the patron pays for the ticket, the month in which the patron is issued the ticket, or the month the event is held?

2. If a place of amusement sells gift certificates that can be redeemed for tickets prior to the event, is revenue reported to the Department for admissions tax purposes in the month the gift certificate is sold; the month the gift certificate is redeemed for a ticket; or the month the event is held?

3. Is a handling fee charged by a place of amusement for a "restaurant package", as described in the Facts, subject to the admissions tax?
Conclusions:

1. Revenue from paid admissions must be reported to the Department on the admissions tax return for the month in which the patron is issued the ticket, or is notified that he will receive a ticket, to attend the event.

   However, if the admissions price has not been paid at the time the patron is issued the ticket or is notified he will receive a ticket, then the revenue from the admissions must be reported to the Department on the admissions tax return for the month in which the patron paid for the ticket.

2. If a place of amusement sells gift certificates that can be redeemed for tickets prior to the event, the revenue is reported to the Department for admissions tax purposes in the month the gift certificate is redeemed for a ticket.

3. The handling fee charged by a place of amusement for a "restaurant package", as described in the Facts, is not subject to the admissions tax.

Facts:

Many sporting events, theaters, and other entertainment activities and facilities sell tickets in advance either through season tickets or passes or on an individual ticket basis. In some instances, groups that make reservations for a large number of people are allowed to pay for their tickets after the event. In addition, many places of amusement sell gift certificates that can be redeemed for tickets prior to the event. The question has arisen as to when the receipts from these sales must be reported to the Department for admissions tax purposes.

Also, several theaters in the State, that offer live entertainment, are offering "restaurant packages" to groups. Under these packages, theaters have entered into agreements with local restaurants. The theater will collect from the group the entire amount for the package in advance. The theater will then book the reservation for the restaurant for the group and will remit the restaurant's portion of the package to the restaurant. For booking the restaurant reservation and paying the restaurant, the theater charges a nominal handling fee, usually one dollar ($1.00) per person in the group. Of course, the group has the option of purchasing the tickets for the theater and booking the restaurant reservation on their own. The question has arisen as to whether this handling fee is subject to the admissions tax.

Discussion:

The first issue concerns when the receipts from advance ticket sales and from gift certificates must be reported to the Department for admissions tax purposes.

Code Section 12-21-2420 imposes the admissions tax and reads, in part:

There must be levied, assessed, collected and paid upon paid admissions to places of amusement within this State a license tax of five percent. (Emphasis added.)
The tax imposed by this section shall be paid by the person or persons paying such admissions price and shall be collected and remitted to the South Carolina Department of Revenue and Taxation by the person or persons collecting such admissions price. ...

Code Section 12-21-2410 defines the various terms used in the admissions tax law and reads in part:

(1) The word "admission" means the right or privilege to enter into or use a place or location;

In SC Revenue Ruling #88-11, the Commissioners held that a paid admissions is one in which money or its equivalent, such as goods or services, are exchanged for the right to enter or use a place of amusement.

In summary, the admissions tax is imposed upon the paid right or privilege to enter into or use a place of amusement. Therefore, revenue from paid admissions must be reported to the Department on the admissions tax return for the month in which the patron is issued the ticket, or is notified that he will receive a ticket, to attend the event. If a group is allowed to pay the admissions price after the event, then these receipts must be reported in the month the admissions price is paid since it is not a "paid admissions" until paid. Finally, the taxpayer for purposes of this tax is the patron.

With respect to a gift certificate which is redeemed prior to the event, the right to enter or use the place of amusement is not granted until the gift certificate is exchanged for a ticket.

The second issue concerns a handling fee for "restaurant packages" and whether these fees are part of "paid admissions". As stated above, "paid admissions", the measure of the admissions tax, is the amount required to be given for the right or privilege to enter into or use a place of amusement.

A similar issue was addressed in the New Jersey case of Ticketron, Inc. v. Director, Division of Taxation, Division of Tax Appeals, April 5, 1979. Ticketron, an independent ticketbroker, used computer-directed remote terminals located in retail stores and banks to sell tickets. This allowed customers to purchase tickets at alternative locations at the established box office price plus an additional separate fee, referred to as a service charge. In determining that the service charge was not taxable as an admission charge, the Division of Tax Appeals concluded:

Ticketron's fee or "service charge" does not purport to be an admission charge. It is a separate service charge for which the purchaser receives a separate receipt. It is not tied to admission since a customer can gain admission to the event involved without paying Ticketron's fee by simply buying the ticket at the box office in person or by mail.
From the facts in the case before me, it is clear that the Ticketron fee is not an admission charge because one need not pay the Ticketron fee in order to gain admission. The fee is simply a service charge for making tickets available to customers at remote locations.

The Commissioners, in SC Revenue Ruling #90-10, cited the above case in reviewing the issue of whether certain service charges and credit card user fees were a part of "paid admissions".

As set forth in SC Revenue Ruling #90-10, for each ticket purchased through remote ticket outlets, mail or telephone, a separate fee (service charge) was assessed and the service charge was divided between the remote ticket outlet and the computerized ticket sales company. Customers purchasing by credit card were charged an additional fee for the system to process the charge transaction (credit card processing fee).

In the ruling, the Commissioners held:

1. Service charges imposed by computerized ticket sales companies, and paid by all persons entering an event, are included in the measure of the admissions tax.

   Service charges imposed by computerized ticket sales companies, but only paid by persons purchasing the tickets at remote locations or by mail, are not included in the measure of the admissions tax.

2. Credit card processing fees imposed by ticket sales companies are not included in the measure of the admissions tax unless all persons entering an event are required to pay by credit card.

While the handling fee in question is charged by the theater, and not a third party as in SC Revenue Ruling #90-10, the principle is the same. The handling fee in question is not part of "paid admissions" since it is a separate charge "not tied to admission since a [group] can gain admission to the event involved without paying [the restaurant package handling] fee by simply buying the ticket[s]" and making the restaurant reservation on their own. The fee is simply a service charge for booking the restaurant reservation and paying the restaurant.

It should be noted that any service charge that is merely an expense of the place of amusement, and is tied to the admissions, would be part of the "paid admissions" subject to the tax.

While it is not directly relevant to the question at hand, SC Private Letter Ruling #92-5 states that the charge by a dinner theater for a ticket is subject to both the sales tax and the admissions tax. However, the dinner theater is only required to remit the sales tax on that portion of the charge representing the price of the meal and the admissions tax on that portion of the charge representing the price of the admissions, provided the price breakdown is reasonable and supported by the records of the taxpayer.
With respect to the restaurant packages in question, a theater is only required to remit the admissions tax on that portion of the charge representing the price of the admissions, provided it is supported by the theater's records. The restaurant is required to remit the sales tax on the portion of the ticket that is paid to the restaurant by the theater.

SC Revenue Ruling #94-3

SOUTH CAROLINA DEPARTMENT OF REVENUE

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
March 1______, 1994

For questions concerning the admissions tax, contact David Shiver of the Office Services Division at (803) 737-4845 or John P. McCormack at (803) 737-4438.
SC REVENUE RULING #05-14

SUBJECT: Places of Amusement (Admissions Tax)

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

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


SC Revenue Procedure #03-1

SCOPE: The purpose of a Revenue Ruling is to provide guidance to the public and to Department personnel. It is a written statement issued to apply principles of tax law to a specific set of facts or a general category of taxpayers. A Revenue Ruling does not have the force or effect of law, and is not binding on the public. It is, however, the Department’s position and is binding on agency personnel until superseded or modified by a change in statute, regulation, court decision, or advisory opinion.

Introduction:

The State of South Carolina imposes an admissions tax for the privilege of entering and using a place of amusement. The purpose of this advisory opinion is to provide examples of places of amusements that are subject to this tax. The list of examples is not all-inclusive and is being provided as guidance for taxpayers.
Law and Discussion:

Code Section 12-21-2420 imposes the admissions tax and states in part:

There must be levied, assessed, collected, and paid upon paid admissions to places of amusement within this State a license tax of five percent. The license tax may be listed separately from the cost of admission on an admission ticket. …

Code Section 12-21-2410 defines the terms “admissions,” “place,” and “person” and states:

For the purpose of this article and unless otherwise required by the context:

(1) The word “admission” means the right or privilege to enter into or use a place or location;

(2) The word “place” means any definite enclosure or location; and

(3) The word “person” means individual, partnership, corporation, association, or organization of any kind whatsoever.

In summary, the admissions tax is imposed upon the paid right or privilege to enter into or use a place of amusement.

It is important to note that the statute taxes charges to "use" a place of amusement, as well as charges to enter a place of amusement. This is seen in Beach v. Livingston, 248 SC 135, 149 SE2d 328 (1966), where the South Carolina Supreme Court held that the admissions tax applied to charges paid for the "use" of a bowling alley even though no charge was required for a person to “enter” the bowling alley. Additionally, an Attorney General's Opinion dated August 2, 1956 (See Attorney General's Report, July 1, 1955 to June 30, 1957) concluded the charge made by a person operating a golf driving range was subject to the admissions tax.

The statute, however, does not define the term “amusement.” However, the following from SC Revenue Ruling #89-8 outlines the Department's longstanding position as to what constitutes an “amusement” and a “place of amusement.”

One of the primary rules of statutory construction is that words used in a statute should be taken in their ordinary and popular meaning, unless there is something in the statute which requires a different interpretation. Hughes v. Edwards, 265 S.C. 529, 220 S.E. 2d 231 (1975); Investors Premium Corp. v. South Carolina Tax Commission, 260 S.C. 13, 193 S.E. 2d 642 (1973). Also, where the terms of a statute are clear and unambiguous and leave no room for construction, they must be applied according to their literal meaning. Mitchell v. Mitchell, 266 S.C. 196, 222 S.E. 2d 217 (1976); Green v. Zimmerman, 269 S.C. 535, 238 S.E. 2d 323 (1977).
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 SC 269, 255 SE 2d 837 (1979); *Fennell v. South Carolina Tax Commission*, 233 S.C. 43, 103 SE2d 424 (1958); *Etiwan Fertilizer Co. v. South Carolina Tax Commission*, 217 SC 484, 60 SE2d 682 (1950).

Black's Law Dictionary, Fifth Edition, defines the term "amusement" to mean: "Pastime, diversion, enjoyment. A pleasurable occupation of the senses or that which furnishes it."

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

- **"Amusement"**
  1. The state of being amused, entertained, or pleased. 2. Something that amuses.

- **"Pastime"**
  An activity that occupies one's spare time pleasantly.

- **"Diversion"**
  Something that distracts the mind and relaxes or entertains.

- **"Enjoyment"**
  1. The act or state of enjoying. 2. The use or possession of something beneficial or pleasurable. 3. Something that gives pleasure.

In summary, a "place of amusement" is any enclosure or location consisting of an activity that occupies one's spare time, distracts the mind, relaxes, entertains, or gives pleasure.

Further, in *Radcliff v. Query*, 153 S.C. 76, 150 S.E. 352 (1929), an Admission's Tax case, the Supreme Court of South Carolina held:

The statute is broad enough to include all classes of public exhibitions,.... (emphasis added).

Black's Law Dictionary, Fifth Edition, defines "public" in part, as:

Public, adj. Pertaining to a state, nation, or whole community; proceeding from, relating to, or affecting the whole body of people or an entire community. Open to all; notorious. Common to all or many; general; pen to common use. Belonging to the people at large; relating to or affecting the whole people or a state, nation, or community; not limited or restricted to
any particular class of the community. Peacock v. Retail Credit Co., D.C.Ga., 302 F.Supp.418, 423 (emphasis added).

In addition, the Appellate Division of the New York Supreme Court held in Wien v. Murphy, 284 N.Y.S. 2d 303, 28 A.D. 2d 222 (1967) that:

... if in fact a place or facility provides something edifying or educational in addition to enjoyment, entertainment or amusement, it is no less a place of amusement.

In other words, the term "place of amusement" is not to be strictly construed so as to exclude places which may also have a business or other purpose. If a place distracts the mind, relaxes, entertains, or gives pleasure, then such place is a "place of amusement".

Finally, Code Section 12-21-2420 establishes various exemptions from the admissions tax and states in part:

… no tax may be charged or collected:

(1) On account of any stage play or any pageant in which wholly local or nonprofessional talent or players are used;

(2) On admissions to athletic contests in which a junior American Legion athletic team is a participant unless the proceeds inure to any individual or player in the form of salary or otherwise;

(3) On admissions to high school or grammar school games or on general gate admissions to the State Fair or any county or community fair;

(4) On admissions charged by any eleemosynary and nonprofit corporation or organization organized exclusively for religious, charitable, scientific, or educational purposes; or the presentation of performing artists by an accredited college or university; provided, that the license tax herein levied and assessed shall be collected and paid upon all paid admissions to all athletic events of any institution of learning above the high school level; provided, however, that carnivals, circuses, and community fairs operated by eleemosynary or nonprofit corporations or organizations organized exclusively for religious, charitable, scientific, or educational purposes shall not be exempt from the assessment and collection of admissions tax on charges for admission for the use of or entrance to rides, places of amusement, shows, exhibits, and other carnival facilities, but not to include charges for general gate admissions except when the proceeds of any such carnival, circus, or community fair are donated to a hospital; provided, further, that no admission tax shall be charged or collected by reason of any charge made to any member of a nonprofit organization or corporation for the use of the facilities of the organization or corporation of which he is a member.
(5) On admissions to nonprofit public bathing places;

(6) On admissions to any hunting or shooting preserve;

(7) On admissions to privately owned fish ponds or lakes; and

(8) On admissions to circuses operated by eleemosynary, nonprofit corporations or organizations organized exclusively for religious, charitable, scientific, or educational purposes when the proceeds derived from admissions to the circuses shall be used exclusively for religious, charitable, scientific or educational purposes.

(9) On admissions to properties or attractions which have been named to the National Register of Historical Places.

(10) On admissions charged to classical music performances of a nonprofit or eleemosynary corporation organized and operated exclusively to promote classical music.

(11) On admissions to events other than those events enumerated in item (4) of this section, sponsored and operated exclusively by eleemosynary, nonprofit corporations or organizations organized exclusively for religious, charitable, scientific, civic, fraternal, or educational purposes when the net proceeds derived from admissions to the events shall be immediately donated to an organization operated exclusively for charitable purposes. The term “net proceeds” shall mean the portion of the gross admissions proceeds remaining after necessary expenses of the event have been paid. This item shall not apply to an event in which the above organizations receive a percentage of gross proceeds or a stated fixed sum for the use of its name in promoting the event.

(12) On admissions charged by nonprofit or eleemosynary community theater companies or community symphony orchestras, county and community arts councils and departments and other such companies engaged in promotion of the arts.

(13) On admissions to boats which charge a fee for pleasure fishing, excursion, sight-seeing and private charter.

(14) On admissions to a physical fitness center subject to the provisions of Chapter 79 of Title 44, the Physical Fitness Services Act, that provides only the following activities or facilities:

    (a) aerobics or calisthenics;
    (b) weightlifting equipment;
    (c) exercise equipment;
(d) running tracks;
(e) racquetball;
(f) swimming pools for aerobics and lap swimming; and
(g) other similar items approved by the department.

The entire admission charge of a physical fitness center which provides any other activity or facilities is subject to the tax imposed by this article. Physical fitness facilities or centers of the State of South Carolina and any of its political subdivisions which are exempt from the Physical Fitness Services Act, pursuant to Section 44-79-110 and, therefore, subject to the admissions tax under this article are nevertheless exempt from the admissions tax if they meet other requirements of this subsection.

(15) for entry into the pit area of NASCAR sanctioned motor speedways or racetracks for drivers, crew members, or car owners where a participation fee is charged these persons by NASCAR, or by the speedway or racetrack, where a charge to these persons is made on a per event basis for entry into the pit area, or where a combination of annual and per event charges to these persons is made for entry into the pit area.

The tax imposed by this section must be paid by the person or persons paying the admission price and must be collected and remitted to the South Carolina Department of Revenue by the person or persons collecting the admission price. The tax imposed by this section does not apply to:

(a) any amount separately stated on the ticket of admission for the repayment of money borrowed for the purpose of constructing an athletic stadium or field by any accredited college or university; or
(b) any amount of the charge for admission, whether or not separately stated, that is a fee or tax imposed by a political subdivision of the State.

The revenue derived from the provisions of this section from fishing piers along the coast of South Carolina is allocated for use of the Commercial Fisheries Division of the Department of Natural Resources.

Also, Code Section 12-21-2430 provides an exemption for certain ponds, and states:

No private pond shall be declared an amusement for tax purposes. But this section shall not apply to a pond stocked with fish from a State or Federal hatchery.
Examples of Places of Amusements Subject to the Admissions Tax

The following list of places of amusements is not all inclusive and is merely provided as guidance. Charges to enter or use these places, events, facilities and rides and all other amusement facilities are subject to the tax unless specifically exempted under Code Section 12-21-2420 or Code Section 12-21-2430:

- air shows
- amusement parks
- amusement rides, shows and exhibits
- animal shows
- antique shows
- aquariums
- aquatic shows
- archery range
- art and craft exhibitions (See SC Revenue Ruling #89-8.)
- automobile shows
- balloon shows
- baseball batting cages (See SC Revenue Ruling 91-14.)
- basketball courts
- boat cruises (See, however, Code Section 12-21-2420(13). Charges for cruises with entertainment, such as one in which patrons attempt to solve a murder mystery, do not come within the exemption in Code Section 12-21-2420(13).)
- boat shows
- botanical gardens
- bowling alleys
- bungee jumping
carnival, circus and fair entrance fees, rides, shows, exhibits, games and other amusement charges

college, professional and other sporting events (football, basketball, baseball, or hockey games; golf tournaments, tennis tournament, rodeos, car racing, polo, horse racing, wrestling, boxing, etc.)

comedy clubs

cruises that offer entertainment (i.e. bands, audience role participation, or plays)

dance halls

dance shows

dinner theaters and attractions (See SC Private Letter Ruling #92-5.)
dog shows

fishing piers and ponds

flight and similar simulators

go cart or car racing tracks to include “pit passes”
golf courses and country clubs (green fees, range fees, membership dues) (See SC Revenue Ruling #91-18 and SC Private Letter Ruling #91-5.)
golf driving ranges

gun and knife shows

handball courts

health clubs (See, however, SC Revenue Ruling 92-1 for a discussion of exempt health clubs.)

historical attractions (See, however, Code Section 12-21-2420(9). Note: Charges for entertainment events, such as rock concerts, on the grounds of a location on the National Register of Historical Places do not come within the exemption in Code Section 12-21-2420(9).)

holiday celebrations and events (Halloween haunted houses, New Year Eve parties, firework shows, crop circles and mazes, etc.)

historical dramas
home shows
home tours (new homes, historical homes, Christmas tours, etc.)
horse shows
laser tag
mazes, including crop mazes
miniature golf or putt-putt courses
miniature or slot car tracks
“monster” truck shows
motorcycle expositions, races and shows
movie theaters or movie “peep show” machines
museums
music concerts
nightclubs, lounges, or bars with a cover charge
pageants
paint ball or laser gun facilities
para sail rides
Parade of Homes tours
planetariums
plays
promotional events such as boat shows, home shows, antique shows, gun and knife shows, and wildlife shows (See SC Revenue Ruling #89-8.)
race car or similar tracks (reality racing, ATV tracks, etc.)
racquetball courts
rock climbing facilities

rodeos

serpentariums

skating rinks or skate board parks

shooting ranges (target, skeet, trap sporting clays, etc.)

spas

spectator events (football, basketball, baseball, or hockey games; golf tournaments, tennis tournaments, rodeos, car racing, polo, horse racing, wrestling, boxing, etc.)

sport clubs

sporting events for spectators (football, basketball, baseball, or hockey games; golf tournaments, tennis tournaments, rodeos, car racing, polo, horse racing, wrestling, boxing, etc.)

squash courts

stage plays or performances

swimming pools and clubs (pool fees, membership dues)

target, skeet, trap or sporting clay ranges

theaters

tractor pulls

tennis or racquetball courts (court fees, membership dues)

water parks

water-skiing shows

water slides

wildlife preserves

wildlife expositions and shows

zoos
It should be noted that it has been the longstanding position of the Department that (1) fees for
golf, tennis, dancing, and self-defense lessons from an instructor; (2) tournament participant
entry fees (exclusive of the normal and customary charges to utilize the place of amusement, i.e.
green or court fees); (3) fees for boat, carriage, helicopter, plane or bus rides for touring, charter,
fishing, or excursion (see SC Technical Advice Memorandum #95-2.); (4) golf cart fees (subject
to sales tax as rentals); (5) “trail fees” (fees charged by golf courses for someone using their own
golf cart); (6) boat or jet ski rental fees (subject to sales tax); (7) fees for using tanning beds; (9)
initiation fees for country clubs, golf clubs, tennis clubs and similar facilities provided the
initiation fee is a one-time (nonrecurring) charge paid as a prerequisite to joining the club; and
(10) fees for equestrian lessons are not fees to enter or use a place of amusement and are not
subject to the admissions tax.

Note: Organizations, event organizers, and others operating places of amusement should
review Code Sections 12-21-2420 and 12-21-2430 to determine if there organization,
location or event falls within one of the statutory exemptions. The burden of proof that an
organization, location or event falls within an exemption rests with the operator of the
place of amusement.

An application for admissions tax exemption under Code Section 12-21-2420 may be
submitted to the Department on Form L-2068. A copy of this “License Tax” form can be
found on the Department’s website (www.scetax.org) under “Quick Links” (“Forms and
Instructions”). An organization, location or event does not need to apply for the exemption
in order to be exempt, but must be able to document (charter, by-laws, financial records,
etc) that an exemption is applicable.

SOUTH CAROLINA DEPARTMENT OF REVENUE

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

September 15, 2005
Columbia, South Carolina

1 An initiation fee should not allow a person to utilize the facilities of the club without payment of a recurring charge
(membership dues). In other words, a one-time charge that is a substitute for recurring membership dues is not an
initiation fee.
TO: ABC
TAX MANAGER: John P. McCormack
SUBJECT: Dinner Attraction  
(Sales Tax and Admissions Tax)
SCOPE: A Private Letter Ruling is a temporary document issued to a taxpayer, 
upon request, and it applies to the specific facts and circumstances related 
in the request.
Private Letter Rulings have no precedential value and are not intended for 
general distribution.

Question:
Is the charge by the ABC for a ticket, which entitles the patron to a meal and a show, subject to 
the sales tax and/or admissions tax?

Facts:
The ABC Dinner Attraction will be opening an entertainment facility in South Carolina in the 
near future. The operation will be similar to a dinner theater. For the one price ticket, the patron 
is admitted to the facility and receives a four course meal and a show.
The dining area surrounds an arena where the show takes place. The show can best be described 
as a rodeo and a trip back into the "wild 1800's".
Discussion:

The issue in question is whether the charge by ABC is subject to the sales tax, admissions tax, or both. Also, if the charge is subject to both the sales and admissions taxes, the measure or basis for calculating the taxes must be determined.

SALES TAX

Code Section 12-36-910 imposes "a sales tax, equal to five percent of gross proceeds of sales, upon every person engaged ... within this State in the business of selling tangible personal property at retail."

The measure of the sales tax, "gross proceeds of sales", is defined at Code Section 12-36-90, in part, as:

... the value proceeding or accruing from the sale, lease, or rental of tangible personal property.

(1) The term includes:

* * * *

(b) the proceeds from the sale of tangible personal property without any deduction for:

(i) the cost of goods sold;
(ii) the cost of materials, labor, or service;
(iii) interest paid;
(iv) losses;
(v) transportation costs;
(vi) manufacturers or importers excise taxes imposed by the United States; or
(vii) any other expenses.

In reviewing the above code sections, it appears that the entire charge may be subject to the sales tax. Such a conclusion appears to be consistent with previous court cases and Commission Decisions. (See Meyers Arnold v. South Carolina Tax Commission, 285 S.C. 303, 328 S.E. 2d 920 (1985 App.) (lay away fees for lay away sales); Regency Towers Association, Inc. v. South Carolina Tax Commission, Horry County Court of Common Pleas, Case No. 88-CP-2 6-1109 (1989) (maid service at a hotel); and Commission Decisions #90-38 and #91-64 (engraving charges as part of the sale of trophies).) These cases and decisions concerned whether or not
certain services incidental to, or associated with, the sale of tangible personal property should be included in "gross proceeds of sales".

The so-called "true object" test is generally used to delineate sales of services from sales of tangible personal property. Applying this test to the matter at hand, it must be determined whether the meal or the entertainment is the true object of the transaction.

If the meal is the true object, then the entertainment is incidental to the sale of the meal and the entire charge for the ticket would be subject to the sales tax. If the true object of the transaction is the show, then the meal would be incidental to the show and the charge for the ticket would not be subject to the sales tax.

The "true object" test is best described in 9 Vanderbilt Law Review 231 (1956), wherein it is stated:

The true test then is one of basic purpose of the buyer. When the product of the service is not of value to anyone other than the purchaser, either because of the confidential character of the product, or because it is prepared to fit the purchaser's special need - a contract or will prepared by a lawyer, or the accident investigation report prepared for an insurance company this fact is evidence tending to show that the service is the real purpose of the contract. When the purpose of a contract is to produce an article which is the true object of the agreement, the final transfer of the product should be a sale, regardless of the fact that special skills and knowledge go into its production. Under this analysis, printing work, done on special order, and of significant value only to the particular customer, is still a sale. The purchaser is interested in the product of the services of the printer, not in the services per se. Similarly, it would seem that contracts for custom-produced articles, be they intrinsically valuable or not, should be classified as sales when the product of the contract is transferred.

The Vanderbilt Law Review article, in quoting Snite v Department of Revenue, 398 Ill. 41, 74 N.E.2d. 877 (1947), also establishes the following general rule:

If the article sold has no value to the purchaser except as a result of services rendered by the vendor, and the transfer of the article to the purchaser is an actual and necessary part of the services rendered, then the vendor is engaged in the business of rendering service, and not in the business of selling at retail. If the article sold is the substance of the transaction and the service rendered is merely incidental to and an inseparable part of the transfer to the purchaser of the article sold, then the vendor is engaged in the business of selling at retail, and the tax which he pays ... [is measured by the total cost of article and services]. If the service rendered in connection with an article does not enhance its value and there is a fixed or ascertainable relation between the value of the article and the value of the service rendered in connection therewith, then the vendor is engaged in the business of selling at retail, and also engaged in the business of furnishing service, and is subject to tax as to the one business and tax exempt as to the other. While the above quotes do not establish rigid rules, they do provide general guidance in determining the purpose of a transaction, and are particularly helpful in addressing the issues of ABC.
Here, we have a situation whereby there is not one true object, but two - the sale of a meal and the sale of entertainment. They are sold together, and one is not incidental to the other. Therefore, ABC "is engaged in the business of selling [a meal] at retail, and also engaged in the business of furnishing [an entertainment] service, and is subject to [the sales] tax as to the one business and tax exempt [for sales tax purposes] as to the other".

In addition, ABC is distinguishable from the above cited cases and decisions of Meyers Arnold v. South Carolina Tax Commission, supra ; Regency Towers Association, Inc. v. South Carolina Tax Commission, supra ; and Commission Decisions #90-38 and #91-64. These cases and decisions fall into the class of transaction whereby "the article sold is the substance of the transaction and the service rendered is merely incidental to and an inseparable part of the transfer to the purchaser of the article sold ...." As such, "the vendor is engaged in the business of selling at retail, and the tax which he pays ... [is measured by the total cost of article and services]."

In considering the above discussion, ABC will only be required to remit the sales tax on that portion of the charge representing the price of the meal, provided it is reasonable and supported by the records of the taxpayer.

**ADMISSIONS TAX**

Code Section 12-21-2420 imposes a 5% admissions tax "upon all paid admissions to all places of amusement within this State ..." Code Section 12-21-2410 defines admissions as "the right or privilege to enter into or use a place or location."

ABC is clearly a place of amusement for which a fee is paid to enter into or use. Therefore, we must determine what is the paid admission.

While the admissions tax statute does define the words "admissions", it does not elaborate as to what constitutes a "paid admissions". It has been the longstanding policy of the Commission to only tax, for admissions tax purposes, that portion of a package deal that represents the price of the admissions. (A package deal is one that includes the purchase of tangible personal property and an admissions to a place of amusement.)

Administrative interpretation of statutes by the agency charged with their administration and not changed by the legislative body are entitled to great weight. Marchant v. Hamilton, 297 S.C. 497, 309 S.E. 2d. 781 (1983). When as in this case, the construction or administrative interpretation of a statute has been applied for a number of years and has not been changed by the legislature, there is created a strong presumption that such interpretation or construction is correct. Ryder Truck Lines, Inc. v. South Carolina Tax Commission. 248 S.C. 148, 149 S.E. 2d. 435 (1966); Etiwan Fertilizer Company v. South Carolina Tax Commission, 217 S.C. 354, 60 S.E. 2d. 682 (1950).
Conclusion:

The charge by the ABC Dinner Attraction for a ticket is subject to both the sales tax and the admissions tax.

However, ABC will only be required to remit the sales tax on that portion of the charge representing the price of the meal and the admissions tax on that portion of the charge representing the price of the admissions, provided the price breakdown is reasonable and supported by the records of the taxpayer.

If the price breakdown is not reasonable or not supported by the records of the taxpayer, then both the sales tax and the admissions tax will apply to the entire charge for the ticket. In other words, the entire ticket will be taxed at 10% (5% sales tax plus 5% admissions tax).
SCTC-111
Business Tax Application

This form is used to apply for:

- an employee withholding number;
- a retail sales license;
- a purchaser’s certificate of registration; or
- nonresident registration.
SOUTH CAROLINA DEPARTMENT OF REVENUE
BUSINESS TAX APPLICATION
INTERNET REGISTRATION: www.sctax.org
TELEPHONE (803) 896-1350
Mail To: SC DEPARTMENT OF REVENUE,
REGISTRATION UNIT
COLUMBIA, SC 29214-0140

FOR OFFICE USE ONLY
SID# ___________________
W/H ____________________
SALES __________________ COMMUNICATIONS USERS? YES NO

FORMER OWNER'S S.C.E.S.C. ACCOUNT NUMBER:  

1350
SCTC-111(Rev. 10/18/07)
8011

TAXES TO BE REGISTERED FOR THIS BUSINESS LOCATION
☐ WITHHOLDING (complete section A)
☐ Nonresident Withholding Exemption (complete section B)  ☐ SALES (complete section C; $50.00 license tax is required)
☐ PURCHASER'S CERTIFICATE (complete section D)

COMPLETE BOTH SIDES OF THIS APPLICATION

PLEASE PRINT OR TYPE ALL INFORMATION

1. OWNER, PARTNERSHIP, OR CORPORATE CHARTER NAME

2. TRADE NAME (DOING BUSINESS AS)

3. PHYSICAL LOCATION OF BUSINESS REQUIRED (NO P.O. BOX)

4. BUSINESS PHONE NUMBER

5. FEDERAL IDENTIFICATION NUMBER

6. MAILING ADDRESS (FOR ALL CORRESPONDENCE)

7. TYPE OF BUSINESS

8. MAIN BUSINESS (I.E., RETAIL FURNITURE SALES)

9. LOCATION OF RECORDS (NO P.O. BOX)

10. TYPE OF OWNERSHIP

11. NAME(S) OF BUSINESS OWNER, GENERAL PARTNERS, OFFICERS OR MEMBERS:

12. HAVE YOU:

A. ACQUIRED ANOTHER BUSINESS?
MERGED WITH ANOTHER BUSINESS?
FORMED A CORPORATION OR PARTNERSHIP
MADE ANY OTHER CHANGE IN THE OWNERSHIP?

B. DID YOU ACQUIRE: ALL OF THE SOUTH CAROLINA OPERATIONS?
PART OF THE SOUTH CAROLINA OPERATIONS?

C. DATE ACQUIRED OR CHANGED:

D. FORMER OWNER’S S.C.E.S.C. ACCOUNT NUMBER:

E. NAME OF BUSINESS ACQUIRED:

F. DATE CLOSED:

G. DOES THE FORMER OWNER OR LEGAL ENTITY CONTINUE TO HAVE EMPLOYEE?

13. FIRST DATE OF EMPLOYMENT IN S.C.

14. ANTICIPATED DATE OF FIRST S.C. PAYROLL

15. ESTIMATE NUMBER OF EMPLOYEES IN S.C.

16. IS BUSINESS WITHIN SC MUNICIPAL LIMITS?

17. IS YOUR BUSINESS SEASONAL?

COMPLETE REVERSE SIDE OF THIS FORM

I CERTIFY THAT ALL INFORMATION ON THIS APPLICATION, INCLUDING ANY ATTACHMENTS, IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE

SIGNATURE OF OWNER, ALL PARTNERS, OR CORPORATE OFFICER TITLE DATE

80111024
SECTION A: TO APPLY FOR WITHHOLDING NUMBER

Every employer having employees earning wages in SC must register for withholding. Other types of payments also require state tax withholding.

STATUS OF EMPLOYER (CHECK ONE):
- RESIDENT - Principal place of activity inside SC
- NONRESIDENT - Principal place of activity outside SC

CLASSIFICATION OF RESIDENT EMPLOYER (CHECK ONE):
- 01 Tax withheld from sources that do not require withholding (Ex.: Domestic Help, Farmers, Fishermen)
- 02 FEDERAL withholding (941 total) does not exceed $2,500.00 per quarter
- 03 FEDERAL withholding (941 total) is less than $50,000 during 12-month lookback period
- 04 FEDERAL withholding (941 total) is greater than $50,000 during 12-month lookback period

CLASSIFICATION OF NONRESIDENT EMPLOYER (CHECK ONE):
- 01 Tax withheld from sources that do not require withholding (Ex.: Domestic Help, Farmers, Fishermen)
- 05 SC State withholding is less than $500 per quarter
- 06 SC State withholding Totals $500 or more per quarter

SECTION B: EXEMPTION FROM WITHHOLDING ON NONRESIDENTS

Check the appropriate block to administratively register with the Department and claim exemption from nonresident withholding required by SC Code Sections 12-8-540 (rents and royalties), 12-8-550 (temporarily doing business or performing services in SC), or 12-8-570 (trust or estate beneficiaries). The exempt person agrees to be subject to the jurisdiction of the Department and the S.C. courts to determine S.C. tax liability, including withholding, estimated taxes, and interest and penalties, if any. Registering is not an admission of tax liability, and, does not, by itself, require the filling of a tax return. See instructions for further information.
- I agree to file SC tax return
- I am not subject to SC Tax Jurisdiction (no NEXUS)

SECTION C: TO APPLY FOR RETAIL SALES LICENSE ($50.00 LICENSE TAX IS REQUIRED.)

In and out-of state sellers. A retail license will not be issued to a person with any outstanding state tax liability. Any license tax paid with this application will be applied to the tax liability.
- IN-STATE SELLER
- OUT-OF-STATE SELLER

If applying for Retail License, a $50.00 Sales License Tax is required with this application.

SECTION D: TO APPLY FOR PURCHASER’S CERTIFICATE OF REGISTRATION FOR USE TAX

S.C. Use Tax is imposed on the storage, use, or consumption of tangible personal property on which S.C. sales tax has not been previously paid.

SECTION E: If mailing address for returns is different from front of application indicate type of tax this applies to.
- SALES
- WITHHOLDING
- PURCHASERS CERTIFICATE

STREET OR BOX ____________________________________________

CITY ___________________ STATE ______ ZIP _______________

IN CARE OF _______________________________________________

PHONE ___________________________________________________

IF CURRENTLY OR PREVIOUSLY REGISTERED WITH SC DEPARTMENT OF REVENUE UNDER THIS OWNERSHIP, INDICATE ACCOUNT NUMBER(S) IN THIS SPACE _______________________________________

NAME OF BANKING INSTITUTION USED __________________________________________

Enter Internet/E-mail address ___________________________________________________

UPON COMPLETION OF BOTH SIDES, SIGN AND DATE ON FRONT OF APPLICATION.

MAIL TO: SC DEPARTMENT OF REVENUE, REGISTRATION UNIT, COLUMBIA, SOUTH CAROLINA 29214-0140

80112022
INSTRUCTION FOR FORM SCTC-111 (Rev. 6/17/03)
APPLICATION MUST BE COMPLETED IN ITS ENTIRETY (FRONT AND BACK).
CHECK APPROPRIATE BLOCK TO INDICATE TYPES OF TAXES TO BE REGISTERED FOR BUSINESS.
COMPLETE APPROPRIATE SECTIONS AS INDICATED.

REGISTER OVER THE INTERNET AT www.sctax.org

ITEM 1 - Enter owner, partnership, or corporate charter name.

ITEM 2 - Enter trade name or business name.

ITEM 3 - Enter the physical location of business (STREET ADDRESS REQUIRED, NOT POST OFFICE BOX).

ITEM 4 - Enter business and daytime telephone number, including area code.

ITEM 5 - Enter Federal Employer Identification Number. To apply for a FEI number, contact the IRS and request Form SS-4. If you have not received your FEI number from the IRS, please notify this office as soon as it is received. Contact IRS at 1-800-829-3676.

ITEM 6 - Enter mailing address for all correspondence if different from business address.

ITEM 7 - Check appropriate block to indicate type of business.

ITEM 8 - Describe main business activity:
(a) If retail, describe the products you sell (apparel, furniture, cars, groceries, sell at flea markets, etc.).
(b) If manufacturer, describe the product you manufacture.
(c) If service, describe the type of service you offer.

ITEM 8A - The specific items listed are subject to a solid waste excise tax. Check appropriate block to indicate if you sell any of these items.

ITEM 8C - Check the appropriate block to indicate if you are providing service to wireless telephone users in South Carolina (include cellular and personal communication service).

ITEM 9 - Enter the location where your records are going to be kept, if different from Item 3. (NO POST OFFICE BOX)

ITEM 10 - Check the appropriate block to indicate type of ownership. Corporations that transact business in SC as well as LLCs/LLPs must qualify with the office of the SC Secretary of State. If ownership type is LLC, indicate the filing method of the LLC (i.e. - partnership, corporation or single-member disregarded entity). If LLC is a disregarded entity, indicate "single member" in item 10 and provide single member information in item 11.

ITEM 11 - Enter social security number. Enter owner, general partners, officers and/or members by name and title. This item should include general partners only; do not include limited partners. Enter home address. Indicate percentage owned for general partners. Attach additional sheet if necessary. Indicate if you are a SC resident and years lived in SC.

Social Security Privacy Act
It is mandatory that you provide your social security number on this tax form. 42 U.S.C 405(c)(2)(C)(i) permits a state to use an individual's social security number as means of identification in administration of any tax. SC Regulation 117-1 mandates that any person required to make a return to the SC Department of Revenue shall provide identifying numbers, as prescribed, for securing proper identification. Your social security number is used for identification purposes.

ITEM 12 - Indicate if you acquired the business in SC and date of acquisition. Show the previous owner's name, address, South Carolina Employment Security Commission account number, and SC retail, corporate and/or withholding tax account number(s). Check appropriate blocks to indicate if the predecessor is completely out of business and if you continued at least 95% of the previous owner's business.

ITEM 13 - Enter date employees first worked for you in SC.

ITEM 14 - Enter anticipated date of the first SC payroll for the business.
SECTION A: WITHHOLDING
Check appropriate block to indicate separate returns for each location or consolidated returns for all locations.
Check appropriate block for status and classification of employer.

SECTION B: NONRESIDENT/CONTRACT WITHHOLDING EXEMPTION
SC statutes require state income tax to be withheld from payments on contracts in excess of $10,000 made to nonresidents. Nonresidents who have no activity and no employees in South Carolina are granted exemption from statute requirements by completing Section B of the application (SCTC-111). Provide a completed form I-312 (Affidavit of Registration) to the withholding agent with whom you are contracting. Form I-312 is not furnished to the South Carolina Department of Revenue.

SECTION C: RETAIL SALES LICENSE
Retailers selling in/into this state are required to have a South Carolina Retail Sales Tax License.

License tax in the amount of $50.00 is required. APPLICATION WILL BE REJECTED IF THE LICENSE TAX IS NOT ENCLOSED.

Check appropriate block for in-state or out-of-state seller.

Enter the anticipated date retail sales will begin (open date). APPLICATION WILL BE REJECTED IF THE DATE IS OMITTED.

Enter the number of retail sales locations in SC under your ownership.

SECTION D: PURCHASER'S CERTIFICATE OF REGISTRATION FOR USE TAX
Enter effective date of registration (open date).

SECTION E: Enter mailing address if different from front of application.

Enter account number(s) in the space provided if currently or previously registered with SC Department of Revenue under this ownership.

Enter the name of the Financial institution (Bank, Credit Union ...) used by the Business.

Enter your Internet/E-mail address.
ST-3T
Accommodations Report by County or Municipality for Sales and Use Tax

Form ST-3T is used by accommodation taxpayers who report the 1% local option taxes. This form is used to report the taxes collected by county and municipality. This form is used to report the gross proceeds derived from the rental or charges for any rooms, campground space, lodging or accommodations furnished to transients by county or municipality in which the taxpayer owns or manages rental units.
Report of gross proceeds derived from the rental or charges for any rooms, campground space, lodging or accommodations furnished to transients by county or municipality in which the taxpayer owns or manages rental units.

<table>
<thead>
<tr>
<th>TAXPAYER</th>
<th>RETAIL LICENSE NUMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Business Name)</td>
<td>(Business Address)</td>
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</tbody>
</table>

**INSTRUCTIONS:**

1. Print or type the present correct business name and address.
2. Enter complete retail license number and period covered as shown on form ST-388 to which this schedule is attached.
3. Total from Columns A, B, and C must equal the amount shown on line1B Column C, line 3 Column C, line 6 Column C respectively from the front of form ST-388.
4. Print or type the name of the county or municipality in which the rental unit(s) is (are) located.
5. Enter the location code shown on the reverse side associated with the county or municipality in which the rental unit(s) is(are) located. If the business location is within a listed municipality, use the municipal code. If the business location is NOT within a listed municipality, use the county numerical code.
6. Enter gross proceeds of sales from business transacted in each county or municipality in Column A. The total of this column must equal the total shown on Line 1 B Column C, of form ST-388 for the period covered.
7. Subtract non-taxable sales from business transacted in each county or municipality and enter net taxable sales in Column B. The total of this column must equal the total shown on Line 3 Column C of form ST-388.
8. Multiply net taxable sales from business transacted in each county or municipality by two percent (2%). Multiply the results by the discount rate used on line 5 of form ST-388 to compute discount amount.
9. Subtract discount amount from the two percent (2%) tax amount computed and enter the net amount payable after discount under Column C for each county or municipality listed. The total of this column must equal the total shown on Line 6 Column C of form ST-388.
10. Attach this schedule to the sales, use, and accommodations tax return (ST-388) for the period covered.

**Mail To:** South Carolina Department of Revenue, Sales & Use, Columbia, South Carolina 29214-0101.

I hereby certify that this schedule/report has been examined by me and to the best of my knowledge and belief is a true and complete schedule/report.

---

<table>
<thead>
<tr>
<th>Name of County or Municipality</th>
<th>(City)</th>
<th>(State)</th>
<th>(Zip)</th>
<th>Code*</th>
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**Totals (Columns A, B and C)**

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* See reverse side for County and Municipal Codes.
<table>
<thead>
<tr>
<th>Name</th>
<th>Code</th>
<th>Name</th>
<th>Code</th>
<th>Name</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aiken County</td>
<td>1002</td>
<td>Burnettown</td>
<td>2150</td>
<td>Charleston</td>
<td>1037</td>
</tr>
<tr>
<td>Aiken</td>
<td>2010</td>
<td>Jackson</td>
<td>2340</td>
<td>Chalmers</td>
<td>2357</td>
</tr>
<tr>
<td>Aiken</td>
<td>2010</td>
<td>Jackson</td>
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<td>Jackson</td>
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<td>Chalmers</td>
<td>2357</td>
</tr>
</tbody>
</table>
ST-388
Sales, Use and Accommodations Tax Return

This return is used by those taxpayers reporting the state sales and use taxes and the 2% tax on accommodations.

Local taxes are reported on Form ST-389 which you then attach to this form.

Most taxpayers file the ST-388 monthly. The return is due by the 20th day of the month following the month for which a return pertains. For example, the return for June 2010 is due by July 20, 2010.
STATE SALES, USE, AND ACCOMMODATIONS TAX RETURN

<table>
<thead>
<tr>
<th>FOR OFFICE USE ONLY</th>
<th>FOR OFFICE USE ONLY</th>
<th>FOR OFFICE USE ONLY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Column A</td>
<td>Column B</td>
<td>Column C</td>
</tr>
<tr>
<td>Sales/Use 6% (Tax Rate)</td>
<td>Sales/Use 5% (Tax Rate)</td>
<td>Accommodations 2% (Tax Rate)</td>
</tr>
</tbody>
</table>

1. All Gross Proceeds of Sales/Rental, Use Tax and Withdrawals for Own Use
   1A. Gross Proceeds of Sales/Rental, Use Tax and Withdrawals for Own Use (From lines 6 and 15 of worksheet)
   1B. Gross Proceeds of Sales from the Rental of Transient Accommodations (From line 22 of worksheet)

2. Total Deductions and Subtractions (From lines 11, 20 and 24 of worksheet)

3. Net Taxable Sales (line 1A or 1B minus line 2)

4. Tax Due (Line 3 x Tax Rate) 6% 5% 2%

5. Taxpayer's Discount (See instructions for timely filed returns only.)

6. Balance Due (Subtract line 5 from line 4 for each column.)

7. Penalty (See Instr.)

7A. Interest (See Instr.)

7B. Total Penalty and Interest (Add lines 7 and 7A for each column.)

8. Amount Due (Add lines 6 and 7B for each column.)

8A. Total Sales, Use and Accommodation Due (Add line 8 of columns A, B and C.) 8A.

9. Tax Due ST-389 (From Column D, line 5, last page of form ST-389) 9.

10. Total Amount Due (Add lines 8A and 9 of Column B.) 10.
SALES AND USE TAX WORKSHEET

Sales and Use Tax - Worksheet 1

1. Gross Proceeds of Sales, Accommodations, Rentals and Withdrawals for Own Use (Total of All Sales)  
2. Out-of-State Purchases  
3. Total (Add lines 1 and 2. Enter here and on line 1, column A, on front of return.)

6% SALES AND USE TAX - Worksheet 2

4. Gross Proceeds of Sales/Rentals and Withdrawals of Inventory for Own Use (Sales subject to 6% tax rate requirements)  
5. Out-of-State Purchases Subject to Use Tax  
6. Total Gross Proceeds at 6% (Add lines 4 and 5. Enter here and on line 1A, Column A on front of return.)

7. Sales and Use Tax Allowable Deductions (Itemize by Type of Deduction and Amount of Deduction)

<table>
<thead>
<tr>
<th>Type of Deduction</th>
<th>Amount of Deduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. *Sales Exempt During &quot;Sales Tax Holiday&quot;</td>
<td>$ ___________________</td>
</tr>
<tr>
<td>b. ** Sales over $100.00 delivered onto Catawba Reservation</td>
<td>$ ___________________</td>
</tr>
<tr>
<td></td>
<td>$ ___________________</td>
</tr>
<tr>
<td></td>
<td>$ ___________________</td>
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<td></td>
<td>$ ___________________</td>
</tr>
<tr>
<td></td>
<td>$ ___________________</td>
</tr>
</tbody>
</table>

8. Total Amount of Deductions 8. < ___________________ >

9. Subtotal (Line 6 minus line 8.) If local tax and/or tax on food is applicable, enter the total amount on line 1 of ST-389 worksheet.

10. Unprepared Food Sales Effective November 1, 2007 sales of unprepared foods (previously taxed at 3%) are exempt of the State sales and use tax rate and must be entered here. However, local taxes still apply to sales of unprepared foods unless the local tax law specifically exempts such sales. As a result, sales that are subject to a local tax must be entered here on line 10 and on Form ST-389 (local sales tax worksheet). Sales reported for a period beginning October 1, 2006 and prior to November 1, 2007, must be entered here and on section 5 of Form ST-389 plus the ST-389 worksheet.

11. Total Deductions and Subtractions (Add lines 8 and 10. Enter total here and on line 2, Column A on front of return.)

12. Net Sales and Purchases (Line 6 minus line 11 should agree with line 3, Column A on front of ST-388.)

IMPORTANT: This return becomes DELINQUENT if it is postmarked after the 20th day (return with payment due on or before the 20th) following the close of the period. Sign and date the return.

For questions regarding this form, call (803) 896-1420.

I hereby certify that I have examined this return and to the best of my knowledge and belief it is a true and accurate return.

Taxpayer’s Signature ________________________________  Owner, Partner or Title ________________________________  Daytime Phone Number ________________________________  Date ________________________________

Internet/E-mail Address: ________________________________

50622034 142
13. Gross Proceeds of Sales/Accommodations Rentals and Withdrawals for Own Use  
(Sales subject to 5% Sales Tax and Accommodations Tax requirements.)

14. Out-of-State Purchases Subject to Use Tax

15. Total Gross Proceeds  (Add lines 13 and 14. Enter here and on line 1A, Column B on front of return.)

16. Sales and Use Tax Allowable Deductions  (Itemize by Type of Deduction and Amount of Deduction)

<table>
<thead>
<tr>
<th>Type of Deduction</th>
<th>Amount of Deduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. *Sales Exempt During &quot;Sales Tax Holiday&quot;</td>
<td>$ ________________</td>
</tr>
<tr>
<td>b. **Sales over $100.00 delivered onto Catawba Reservation</td>
<td>$ ________________</td>
</tr>
</tbody>
</table>

17. Total Amount of Deductions

18. Subtotal (Line 15 minus line 17.) If local tax and/or tax on food is applicable, add lines 18 and 9. Enter this amount on line 1 of ST-389 worksheet.

19. Unprepared Food Sales  
Effective November 1, 2007 sales of unprepared foods (previously taxed at 3%) are exempt of the State sales and use tax rate and must be entered here. However, local taxes still apply to sales of unprepared foods unless the local tax law specifically exempts such sales. As a result, sales that are subject to a local tax must be entered here on line 19 and on Form ST-389 (local sales tax worksheet).

Sales reported for a period beginning October 1, 2006 and prior to November 1, 2007, must be entered here and on section 5 of Form ST-389 plus the ST-389 worksheet.

20. Total Deductions and Subtractions  (Add lines 17 and 19. Enter total here and on line 2, Column B on front of return.)

21. Net Sales and Purchases  (Line 15 minus line 20 should agree with line 3, Column B on front of ST-388.)

22. Gross Proceeds of Sales from the Rental of Transient Accommodations  
Enter here and on line 1B, Column C, on front of return)

23. Allowable Deductions:  (Itemize by Type and Amount of Deduction)

<table>
<thead>
<tr>
<th>Type of Deduction</th>
<th>Amount of Deduction</th>
</tr>
</thead>
<tbody>
<tr>
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<td></td>
<td>$ ________________</td>
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</tbody>
</table>

24. Total Amount of Deductions (Total Column B)  
(Enter here and on line 2, Column C on front of return)

25. Net Sales of Transient Accommodations  
Line 22 minus line 24 should agree with line 3 of Column C on front of ST-388.
ST-389

Schedule for Local Option Sales Tax

Form ST-389 ("Addendum") is used by those taxpayers who report the 1% local option taxes. The form is used to report the 1% taxes by county and municipality. Each county and municipality is identified by a four digit code, which is required to be shown on this form.

Form ST-389 is attached to and submitted with Form ST-3, ST-3A, ST-388 or ST-388A.
SCHEDULE FOR LOCAL TAXES AND UNPREPARED FOOD

NOTE: DO NOT TAKE CREDITS OR REPORT NEGATIVE AMOUNTS ON THIS FORM.
To apply for refunds, see ST-14.

<table>
<thead>
<tr>
<th>Name of County or Jurisdiction</th>
<th>Code</th>
<th>Net Taxable Amount</th>
<th>Local Tax</th>
<th>Discount</th>
<th>Net Amount After Discount</th>
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<tbody>
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<td>AIKEN</td>
<td>1002</td>
<td>X x 1% =</td>
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<td>(B)</td>
<td>(C)</td>
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<td>FLORENCE</td>
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<tr>
<td>GREENWOOD</td>
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<td>XXXXXXXXXX x 1% =</td>
<td>XXXXXXXXXX</td>
<td>-</td>
<td>XXXXXXX =</td>
</tr>
<tr>
<td>Horry</td>
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<td>-</td>
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</tbody>
</table>

All pages of ST-389 must be submitted.
1. **Net Sales and Purchases**
   - from line 6 of ST-3 Worksheet
   - from lines 9 and 18 of ST-388 Worksheets
   - from lines 6 and 12 of ST-403 Worksheets
   - from lines 9 and 18 of ST-455 Worksheets
   - from lines 6 and 12 of ST-501 Worksheets

2. **Catawba Tribal Sales**
   - from line 4b deductions of ST-3 Worksheet
   - from lines 4 and 11 deductions of ST-403 Worksheets
   - from lines 7b and 16b deductions of ST-455 Worksheets
   - from lines 4 and 11 deductions of ST-501 Worksheets

3. **Total Sales and Purchases (Add lines 1 and 2.)**

4. **Local Tax Allowable Deductions**
<table>
<thead>
<tr>
<th>Column A</th>
<th>Column B</th>
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<tbody>
<tr>
<td>Type of Deduction</td>
<td>Amount of Deduction</td>
</tr>
<tr>
<td>a. Catawba Sales less than $100.00</td>
<td>$ ____________________</td>
</tr>
<tr>
<td>b. Sales Not Subject to Local Tax</td>
<td>$ ____________________</td>
</tr>
<tr>
<td>______________________________</td>
<td>$ ____________________</td>
</tr>
<tr>
<td>______________________________</td>
<td>$ ____________________</td>
</tr>
</tbody>
</table>

5. **Total Allowable Deductions (Total Column B)**

6. **Total Net Taxable Local Sales** (Line 3 minus line 5.)
   **Should agree** with ST-389, Page 7, line 1, column A.

   **Note:** When your sales, purchases and withdrawals are made or delivered into a locality with more than one local tax and/or when tax is reported on the sale of unprepared food in a county with a local tax, the total on form ST-389 will not agree with line 6.

   **Note:** This form does not address the local taxes on sales that are collected directly by the counties or municipalities (sales of accommodations or prepared meals). It only addresses the general local taxes collected by the Department of Revenue on behalf of the counties, school districts, and the Catawba Indian tribal government.

**CAPITAL PROJECT, CATAWBA TRIBAL, EDUCATION CAPITAL IMPROVEMENT, SCHOOL DISTRICT, TOURISM DEVELOPMENT AND TRANSPORTATION TAX NUMERICAL CODES**

As a result of specific legislation, certain counties and jurisdictions now impose additional sales and use taxes, which are identified as Capital Project, Catawba Tribal, Education Capital Improvement, School District, Tourism Development, or Transportation Tax. These taxes are required to be reported based upon the county or jurisdiction in which the sale consummates. (Usually this is where the business is located, but it can be the place of delivery or physical presence by acceptance of the goods sold, if different from the business location). For your convenience, the counties and jurisdictions that currently impose these additional taxes are listed on this form with their assigned four digit processing code.

---

All pages of ST-389 must be submitted.

Page 2 of 8
# Business Name

**Retail License or Use Tax**  
**Registration Number**  

### Period ended * of **Page**

NOTE: DO NOT TAKE CREDITS OR REPORT NEGATIVE AMOUNTS ON THIS FORM.  
To apply for refunds, see ST-14.

<table>
<thead>
<tr>
<th>Name of County or Jurisdiction</th>
<th>Code</th>
<th>Net Taxable Amount</th>
<th>Local Tax</th>
<th>Discount</th>
<th>Net Amount After Discount</th>
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</table>

2. **SCHOOL DISTRICT / EDUCATION CAPITAL IMPROVEMENT TAX** (A)  

ST-389, page 3 of 8

All pages of ST-389 must be submitted.
### 3. TRANSPORTATION TAX

<table>
<thead>
<tr>
<th>Name of County or Jurisdiction</th>
<th>Code</th>
<th>Net Taxable Amount</th>
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<tr>
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<tr>
<td>DORCHESTER</td>
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### 4. CATAWBA TRIBAL TAX

<table>
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<th>Net Amount After Discount</th>
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<tr>
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<td>1046</td>
<td>x 7% =</td>
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</table>

### 5. 3% TAX ON UNPREPARED FOOD

<table>
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</table>

Complete this section only for sales of unprepared food which lawfully may be purchased with United States Department of Agriculture food stamps beginning October 1, 2006 and prior to November 1, 2007.
**NOTE: DO NOT TAKE CREDITS OR REPORT NEGATIVE AMOUNTS ON THIS FORM.**

To apply for refunds, see ST-14.

---

**Business Name**

**Retail License or Use Tax Registration Number**

**Period ended** ____________

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<thead>
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<th>Name of County or Jurisdiction</th>
<th>Code</th>
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<th>Net Amount After Discount</th>
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</tbody>
</table>

**List one entry per line. If additional lines for Local Option are needed, complete ST-389-A.**

---

All pages of ST-389 must be submitted.

ST-389, page 5 of 8
The four digit code(s) listed below are to be used when filing this form. Each code reflects the location at which the sale was consummated. (Usually this is where the business is located, but it can be the place of delivery or physical presence by acceptance of the goods sold, if different from the business location.)

Local Option Tax is applicable only to the counties listed below. Only names of incorporated towns are included in this listing. Other counties may be added at a later date by referendum. A complete updated list of all counties with local taxes can be found on our website www.sctax.org under Sales and Use > Publications.

If the sale is consummated in a municipality you must use the city code, not the general county code.

<table>
<thead>
<tr>
<th>Name</th>
<th>Code</th>
<th>Name</th>
<th>Code</th>
<th>Name</th>
<th>Code</th>
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<td>2250</td>
</tr>
<tr>
<td>Bonneau</td>
<td>2076</td>
<td>Turbeville</td>
<td>2905</td>
<td>Lancaster County</td>
<td>1029</td>
</tr>
<tr>
<td>Goose Creek</td>
<td>2342</td>
<td>Colleton County</td>
<td>1015</td>
<td>Lancaster (City)*</td>
<td>2482</td>
</tr>
<tr>
<td>Hanahan</td>
<td>2382</td>
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<td>2172</td>
<td>Health Spring</td>
<td>2396</td>
</tr>
<tr>
<td>Jamestown</td>
<td>2442</td>
<td>Edisto Beach</td>
<td>2243</td>
<td>Kershaw</td>
<td>2460</td>
</tr>
<tr>
<td>Moncks Corner</td>
<td>2600</td>
<td>Lodge</td>
<td>2530</td>
<td>Laurens County</td>
<td>1030</td>
</tr>
<tr>
<td>St. Stephens</td>
<td>2858</td>
<td>Smoaks</td>
<td>2831</td>
<td>Laurens (City)*</td>
<td>2498</td>
</tr>
<tr>
<td>Summerville</td>
<td>2876</td>
<td>Walterboro</td>
<td>2940</td>
<td>Clinton</td>
<td>2151</td>
</tr>
<tr>
<td>Calhoun County</td>
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<td>Williams</td>
<td>2965</td>
<td>Cross Hill</td>
<td>2181</td>
</tr>
<tr>
<td>Cameron</td>
<td>2106</td>
<td>Darlington County</td>
<td>1016</td>
<td>Fountain Inn</td>
<td>2316</td>
</tr>
<tr>
<td>St. Matthews</td>
<td>2855</td>
<td>Darlington (City)*</td>
<td>2200</td>
<td>Gray Court</td>
<td>2350</td>
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<td>Hartsville</td>
<td>2392</td>
<td>Ware Shoals</td>
<td>2946</td>
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<td>Lamar</td>
<td>2478</td>
<td>Waterloo</td>
<td>2947</td>
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<tr>
<td>Awendaw</td>
<td>2038</td>
<td>Society Hill</td>
<td>2837</td>
<td>Lee County</td>
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<tr>
<td>Folly Beach</td>
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<td>Dillon County</td>
<td>1017</td>
<td>Bishopville</td>
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<tr>
<td>Hollywood</td>
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<td>Dillon (City)*</td>
<td>2208</td>
<td>Lynchburg</td>
<td>2554</td>
</tr>
<tr>
<td>Isle of Palms</td>
<td>2436</td>
<td>Lake View</td>
<td>2474</td>
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<tr>
<td>James Island</td>
<td>2441</td>
<td>Latta</td>
<td>2494</td>
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<tr>
<td>Kiawah Island</td>
<td>2462</td>
<td>Edgefield County</td>
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<td>Mullins</td>
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<tr>
<td>Lincolville</td>
<td>2514</td>
<td>Edgefield (Town)*</td>
<td>2240</td>
<td>Nichols</td>
<td>2636</td>
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<tr>
<td>McClellanville</td>
<td>2573</td>
<td>Johnstown</td>
<td>2448</td>
<td>Sellers</td>
<td>2813</td>
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<tr>
<td>Meggett</td>
<td>2597</td>
<td>North Augusta</td>
<td>2653</td>
<td>Edgefield County</td>
<td>1019</td>
</tr>
<tr>
<td>Mt. Pleasant</td>
<td>2609</td>
<td>Trenton</td>
<td>2901</td>
<td>Edgefield (Town)*</td>
<td>2240</td>
</tr>
</tbody>
</table>

All pages of ST-389 must be submitted.

Special Notice

*If your sales or purchases are delivered within a city or town, you must use the CITY or TOWN code to properly identify the specific city.
### Part 7: Tourism Development Tax

<table>
<thead>
<tr>
<th>Name of County or Jurisdiction</th>
<th>Code</th>
<th>Net Taxable Amount</th>
<th>Local Tax</th>
<th>Discount</th>
<th>Net Amount After Discount</th>
</tr>
</thead>
<tbody>
<tr>
<td>MYRTLE BEACH</td>
<td>2615</td>
<td>[Calculation]</td>
<td>[Calculation]</td>
<td>[Calculation]</td>
<td>[Calculation]</td>
</tr>
</tbody>
</table>

1. Add Column A from pages 1, 3, 4, 5, 7 and all ST389-A’s.  
2. Add Column B from pages 1, 3, 4, 5, 7 and all ST389-A’s.  
3. Add Column D from pages 1, 3, 4, 5, 7 and all ST389-A’s.  
4. Penalty ______________ Interest ______________  
5. Total (Add lines 3 and 4) Enter amount on line 9 of ST-3, ST-388, ST-455, or line 17 of ST-403 or ST-501

### Additional Information
- Other counties may adopt local taxes at a later date.
- For questions, call (803) 898-5788.

### Form Information
- **Mail to: Department of Revenue, Sales Tax, Columbia, SC 29214-0101**
- **All pages of ST-389 must be submitted.**
- **Page 7 of 8**
Collection of Catawba Tribal Sales Tax

The Catawba Tribal Sales Tax is set aside in a tribal trust fund for the benefit of the tribe and its members. The reservation is located in parts of York and Lancaster counties. The chart shown below illustrates the type of tax imposed and tax rate to be collected from various points of delivery.

New Sales Tax Rate for Catawba Tribal Tax Effective May 1, 2009

Tax Chart of Applicable Tax Type and Rates on Sales to Catawba Reservation

<table>
<thead>
<tr>
<th>Explanation of Applicable Deliveries</th>
<th>Tax Type</th>
<th>Tax Rate by County</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>York</td>
</tr>
<tr>
<td>Retailers located on the reservation and making a sale (delivery) on the reservation</td>
<td>Tribal Tax</td>
<td>7%</td>
</tr>
<tr>
<td>Retailers located within the state and off the reservation making a sale (delivery) on the reservation greater than $100.00.</td>
<td>Tribal Tax</td>
<td>7%</td>
</tr>
<tr>
<td>*Retailers located within the state and off the reservation making a sale (delivery) on the reservation of $100.00 or less.</td>
<td>State Tax Only</td>
<td>*6%</td>
</tr>
<tr>
<td>*Retailers located outside the state (registered with DOR) making a sale (delivery) on the reservation</td>
<td>State Tax Only</td>
<td>*6%</td>
</tr>
</tbody>
</table>

*Local taxes would not be applicable in these circumstances only.

Note: The tribal sales tax rates within the Reservation may change in the future. For additional information concerning the tribal sales tax see SC Revenue Ruling #98-18.

Collection of Tourism Development Tax

The Municipal Council of the City of Myrtle Beach has implemented a 1% Local Option Tourism Development Fee (referred to as Tourism Development Sales and Use Tax). This tourism development tax is imposed specifically for tourism advertisement and promotion directed at non-South Carolina residents.

This tax is collected by retailers located in or making sales into the City of Myrtle Beach. Retailers reporting the tourism development tax must report the tax by the municipality of delivery (as preprinted in Section 7 on Form ST-389). The tax does not apply to items subject to a maximum tax or the gross proceeds of sales of unprepared food that may lawfully be purchased with United States Department of Agriculture food coupons.
L-511
Admissions/Theater Tax Return

This return is used by those taxpayers reporting the state’s 5% admissions tax.

The L-511 is due and payable on or before the 20th day of each month. For example, the return for June 2010 is due on or before July 20, 2010.
ADMISSIONS/THEATER TAX RETURN
Mail To: SC Department of Revenue, Admissions Tax, Columbia, SC 29214-0136

IMPORTANT: This return is DUE on the 1st day of the month following the period covered by the return, and becomes DELINQUENT on the 21st day.

This form MUST be completed in black ink only.

SID NUMBER: L-511

PERIOD ENDED

PLEASE CHANGE ADDRESS IF NOT CORRECT.

COMPUTATION OF TAX

(1) Total Gross Receipts ................................................................. $________

(2) Net Receipts (Divide Line 1 by 105 Percent) .............................. $________

(3) Tax Due (Line 2 X 5 %) ......................................................... $________

(4) Penalty ................................................................................. $________

(5) Interest ................................................................................ $________

TOTAL AMOUNT REMITTED (Check if payment is by EFT), □........ $________

G/L 14-0901

IMPORTANT: DO NOT INCLUDE OTHER TAXES WITH THIS PAYMENT
For questions regarding this form call (803) 896-1970

I hereby certify that the information contained in this report (including accompanying schedules and statements) has been examined by me and to the best of my knowledge is correct and complete.

Taxpayer Signature       Title       Daytime Phone Number       Date

Internet/Email Address

PLEASE COMPLETE THIS SECTION.

<table>
<thead>
<tr>
<th>Number of Admissions Charged</th>
<th>Total Price of Admissions Including Tax</th>
<th>Gross Receipts of Admissions Including Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>$</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>$</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>$</td>
<td>$</td>
<td></td>
</tr>
</tbody>
</table>

Total Gross Receipts (Transfer to Line 1) $________

Penalties - Failure to file a return will result in a penalty of five percent (5%) for the first month plus five percent (5%) for each additional month not to exceed an aggregate of twenty-five percent (25%). Failure to pay will result in penalties of one half of one percent (.5%) per month not to exceed twenty-five percent (25%).

Interest - Interest on all overdue accounts will be assessed at the rate provided under Sections 6621 and 6622 of the Internal Revenue Code. Rates will change quarterly depending on the prime rate. In addition interest will be compounded daily.

You are required to maintain a copy of this return for audit purposes.
Social Security Privacy Act Disclosure

It is mandatory that you provide your social security number on this tax form, if you are an individual. 42 U.S.C 405(c)(2)(C)(i) permits a state to use an individual's social security number as means of identification in administration of any tax. SC Regulation 117-201 mandates that any person required to make a return to the SC Department of Revenue shall provide identifying numbers, as prescribed, for securing proper identification. Your social security number is used for identification purposes.

The Family Privacy Protection Act

Under the Family Privacy Protection Act, the collection of personal information from citizens by the Department of Revenue is limited to the information necessary for the Department to fulfill its statutory duties. In most instances, once this information is collected by the Department, it is protected by law from public disclosure. In those situations where public disclosure is not prohibited, the Family Privacy Protection Act prevents such information from being used by third parties for commercial solicitation purposes.
L- 514

Application for License to Operate Place of Amusement

Before engaging in business every person operating a place of amusement within the State subject to the tax imposed shall file the L-514 application with the department for a permanent license permitting him to engage in the business as designated in SC Code Section 12-21-2440.
**APPLICATION FOR LICENSE TO OPERATE PLACE OF AMUSEMENT**

**L-514**

(Rev. 7/6/07)

**Printing or Typing All Information.**

If assistance is needed, call (803) 896-1350

**Mail to:** SC Department of Revenue

Registration Unit

Columbia, SC 29214-0140

**License No.**

**FOR OFFICE USE ONLY**

**SID**

**Mail:** SC Department of Revenue

Registration Unit

Columbia, SC 29214-0140

---

<table>
<thead>
<tr>
<th><strong>1. OWNER, PARTNERS OR CORPORATE NAME</strong></th>
<th><strong>2. TRADE NAME (DOING BUSINESS AS)</strong></th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th><strong>3. PHYSICAL LOCATION OF BUSINESS REQUIRED (NO P.O. BOX)</strong></th>
<th><strong>4. BUSINESS PHONE NUMBER</strong></th>
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<tbody>
<tr>
<td><strong>STREET</strong></td>
<td><strong>DAY TIME PHONE NUMBER</strong></td>
</tr>
<tr>
<td><strong>CITY</strong></td>
<td><strong>FEDERAL IDENTIFICATION NUMBER</strong></td>
</tr>
<tr>
<td><strong>COUNTY (Required)</strong></td>
<td><strong>5.</strong></td>
</tr>
<tr>
<td><strong>STATE</strong></td>
<td><strong>TYPE OF ADMISSION</strong></td>
</tr>
<tr>
<td><strong>ZIP</strong></td>
<td><strong>02</strong></td>
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<table>
<thead>
<tr>
<th><strong>6. MAILING ADDRESS (IF DIFFERENT)</strong></th>
<th><strong>7. LOCATION OF RECORDS (No P.O. Box)</strong></th>
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</thead>
<tbody>
<tr>
<td><strong>IN CARE OF</strong></td>
<td><strong>SOCIAL SECURITY NUMBER</strong></td>
</tr>
<tr>
<td><strong>STREET</strong></td>
<td><strong>NAME/TITLE</strong></td>
</tr>
<tr>
<td><strong>CITY</strong></td>
<td><strong>ADDRESS</strong></td>
</tr>
<tr>
<td><strong>COUNTY</strong></td>
<td><strong>IF PARTNER, PERCENT OWNED</strong></td>
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<tr>
<td><strong>STATE</strong></td>
<td><strong>OTHER (EXPLAIN)</strong></td>
</tr>
<tr>
<td><strong>ZIP</strong></td>
<td><strong>DATE OF BEGINNING ADMISSION CHARGE</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Month</strong></th>
<th><strong>Date</strong></th>
<th><strong>Year</strong></th>
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</table>

<table>
<thead>
<tr>
<th><strong>8. LOCATION OF RECORDS (No P.O. Box)</strong></th>
<th><strong>9. DATE OF BEGINNING ADMISSION CHARGE</strong></th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th><strong>10. TYPE OF OWNERSHIP</strong></th>
<th><strong>11. NAMES OF BUSINESS OWNER, PARTNERS OR OFFICERS:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SOLE PROPRIETOR</strong></td>
<td><strong>SOCIAL SECURITY NUMBER</strong></td>
</tr>
<tr>
<td><strong>PARTNERSHIP</strong></td>
<td><strong>NAME/TITLE</strong></td>
</tr>
<tr>
<td><strong>CORPORATION</strong></td>
<td><strong>ADDRESS</strong></td>
</tr>
<tr>
<td><strong>LLC-LLP</strong></td>
<td><strong>IF PARTNER, PERCENT OWNED</strong></td>
</tr>
<tr>
<td><strong>UNINCORPORATED ASSOCIATION</strong></td>
<td><strong>OTHER (EXPLAIN)</strong></td>
</tr>
</tbody>
</table>

| **12. Is business seasonal?** | **Yes** | **No** |

<table>
<thead>
<tr>
<th><strong>13. If yes, indicate months open</strong></th>
<th><strong>SEASONAL MONTHS</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>J</strong></td>
<td><strong>F</strong></td>
</tr>
</tbody>
</table>

**NOTICE:** An admissions license will not be issued to a person with any outstanding state tax liability.

**STATE OF SOUTH CAROLINA**

County of

I, ______________________________________, _____________________________ of the Firm of ______________________________________, Swear (or affirm) that the information contained herein is to the best of my knowledge and belief true and correct.

Sworn to and subscribed before me this ___________ day of ___________ year of ____________________.

________________________________________

(Taxpayer)                                    (Date)

________________________________________

(Notary Public for S.C.)
CONDITION REQUIREMENTS FOR A LICENSE TO OPERATE PLACE OF AMUSEMENT

1. A place of amusement cannot charge an admission without obtaining a license to operate a place of amusement.

2. Upon receipt of a license to operate a place of amusement, the licensee shall post same in a place easily seen by the public.

3. Tickets shall be sold only for amounts printed thereon and also collected and torn.

4. Records shall be maintained indicating ticket purchase invoices, tickets, sales etc.

5. Alternative Methods of Accounting for Admissions taxes must be requested using form L-2203.

6. Return shall be postmarked no later than the 20th day of each month following the period covered reflecting any activity conducted.

This is to affirm that the above requirements have been read and explained to me.

Owner, partner, or officer

Date

Dept. of Revenue Representative

TYPE OF ADMISSIONS

01 Dances
02 Night Clubs
03 Bands
04 Skating
05 Bowling
06 Golf
07 Golf Driving Range, Tennis
08 Miniature Golf Course
09 Swimming
10 Miniature Raceway (Go-Karts)
11 Trampolines
12 Archery
13 Amusement Rides
14 Carnival
15 Circus
16 Itinerant Shows
17 Promoter
18 Gardens
19 Amusement Parks
20 Sight Seeing Attractions
21 Fishing Pier
22 Horse Racing, Shows & Rides
23 Athletic Events
24 Auto Racing, Motorcycle
25 Fishing Ponds
26 Gyms, Spas, Body Building and Fitness Centers
27 Miscellaneous
28 Theaters

Social Security Privacy Act Disclosure
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L-2068

Application for Admissions Tax Exemption

The L-2068 form is an application in which taxpayers can request to be exempted from paying the state’s admissions tax.
Mail to: South Carolina Department of Revenue, Admissions Tax, Columbia, SC 29214-0140.

Name of Organization: ________________________________

Location Address: __________________________________

Mailing Address (Street/P.O. Box): ______________________

City ___________________________ State ________________ Zip ________________

Phone Number ______________________ FEI Number/SSN ______________________

Please Answer the Following:

1. Indicate the exemption number for which your organization/corporation is applying. (See reverse for list of exemptions.)

2. Name of Event/Activity (or nature of business) ________________________________

3. Does your organization/corporation have a letter from the IRS granting an exemption from federal income tax?
   □ Yes (attach copy)   □ No

4. What is the purpose of your organization/corporation? (Attach copy of charter and bylaws.) ________________________________

5. How will the proceeds from this event/activity be used? ________________________________

6. If applying under exemption #11, supply name and address of organization to which net proceeds are to be donated:
   Name ___________________________ Address ___________________________

7. How often will this event/activity take place? (One-time, annually, on-going, seasonal, etc.) ________________________________

When signing this form, it is important that the information contained in your report be correct and complete. To willfully furnish a false or fraudulent statement to the Department is a crime.

_________________________  __________________________  ________________
Signature                              Title                                        Date

OFFICE USE ONLY: (Attach C-100 if needed)
Reviewed By:
Reviewer's Recommendation

_________________________  __________________________  ________________
Name/Title                                        Date

Supervisor's Recommendation

_________________________  __________________________  ________________
Name/Title                                        Date
Exemptions to Admissions Tax

(1) On account of any stage play or any pageant in which wholly local or nonprofessional talent or players are used;

(2) On admissions to athletic contests in which a junior American Legion athletic team is a participant unless the proceeds inure to any individual or player in the form of salary or otherwise;

(3) On admissions to high school or grammar school games or on general gate admissions to the State Fair or any county or community fair;

(4) (A) Admissions charged by any nonprofit organization, organized exclusively for religious, charitable, scientific or educational purposes; or the presentation of performing artists by an accredited college or university. However, this exemption does not apply to charges by such organizations for the use or entrance to rides, exhibits or other facilities at a carnival, circus or fair operated by such organizations and it does not apply to athletic events at any institution of learning above the high school level.

(B) The general gate admissions to any carnival, or circus when proceeds are donated to a hospital. This exemption does not apply to charges for rides, shows or exhibits.

(C) Admissions charged members by a nonprofit organization for the use by that member of the facilities of the organization, of which the person is a member. Admissions charged to guests of a member, whether or not paid by the member or the guest, are subject to the tax.

(5) On admissions to nonprofit public bathing places;

(6) On admissions to any hunting or shooting preserve;

(7) On admissions to privately owned fish ponds or lakes;

(8) On admissions to circuses operated by eleemosynary, nonprofit corporations or organizations organized exclusively for religious, charitable, scientific, or educational purposes when the proceeds derived from admissions to the circuses shall be used exclusively for religious, charitable, scientific or educational purposes;

(9) On admissions to properties or attractions which have been named to the National Register of Historical Places;

(10) On admissions charged to classical music performances of a nonprofit or eleemosynary corporation organized and operated exclusively to promote classical music;

(11) On admissions to events other than those events enumerated in item (4) of this Section, sponsored and operated exclusively by eleemosynary, nonprofit corporations or organizations organized exclusively for religious, charitable, scientific, civic, fraternal, or educational purposes when the net proceeds derived from admissions to the events shall be immediately donated to an organization operated exclusively for charitable purposes. The term “net proceeds” shall mean the portion of the gross admissions proceeds remaining after necessary expenses of the event have been paid. This item shall not apply to an event in which the above organizations received a percentage of gross proceeds or a stated fixed sum for the use of its name in promoting the event; (Note: see question number 6, on front)

(12) On admissions charged by nonprofit or eleemosynary community theater companies or community symphony orchestras, county and community arts councils and commissions and other such companies engaged in promotion of the arts; and

(13) On admissions to boats which charge a fee for pleasure fishing, excursion, sight-seeing and private charter.

(14) On admissions to a physical fitness center subject to the provisions of Chapter 79 of Title 44, the Physical Fitness Services Act, that provides only the following activities or facilities:

(a) aerobics or calisthenics,
(b) weight lifting equipment,
(c) exercise equipment,
(d) running tracks,
(e) racquetball,
(f) swimming pools for aerobics and lap swimming, and
(g) other similar items approved by the department.

The entire admission charge of a physical fitness center which provides any other activity or facilities is subject to the tax imposed by this article. Physical fitness facilities or centers of the State of South Carolina and any of its political subdivisions which are exempt from the Physical Fitness Services Act, pursuant to Section 44-79-110 and, therefore, subject to the admissions tax under this article are nevertheless exempt from the admissions tax if they meet other requirements of this subsection.

(15) For entry into the pit area of NASCAR sanctioned motor speedways or racetracks for drivers, crew members, or car owners where a participation fee is charged these persons by NASCAR, or by the speedway or racetrack, where a charge to these persons is made on a per event basis for entry into the pit area, or where a combination of annual and per event charges to these persons is made for entry into the pit area.

(16) (A) For ten years beginning July 1, 2008, one-half of the paid admissions to a motorsports entertainment complex.

(B) For purposes of the exemption allowed by this section, a motorsports entertainment complex means a motorsports facility, and its ancillary grounds and facilities, that satisfies all of the following:

(1) has at least sixty thousand fixed seats for race patrons;
(2) has at least three scheduled days of motorsports events, and events ancillary and incidental thereto, each calendar year that are sanctioned by a nationally or internationally recognized governing body of motorsports that establishes an annual schedule of motorsports events;
(3) engages in tourism promotion.

41482027
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A certificate issued pursuant to this exemption expires on June 30, 2018. At the time the certificate expires, it must be returned to the SC Department of Revenue, PO Box 125, Columbia, SC 29214.
Numbers to Call

All phone numbers are in the 803 area code

<table>
<thead>
<tr>
<th>SALES/USE AND ACCOMMODATIONS TAX</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Accommodations Tax</td>
<td>898-5788</td>
</tr>
<tr>
<td>Extensions</td>
<td>898-5788</td>
</tr>
<tr>
<td>Failure to File</td>
<td>898-5788</td>
</tr>
<tr>
<td>Form ST 236 Or Refunds</td>
<td>898-5788</td>
</tr>
<tr>
<td>General Questions</td>
<td>898-5788</td>
</tr>
<tr>
<td>Local Option Sales Tax</td>
<td>898-5788</td>
</tr>
<tr>
<td>Rental Surcharge</td>
<td>898-5788</td>
</tr>
<tr>
<td>Technical Questions on Sales, Use, Local Option, Accommodation &amp; Miscellaneous Tax Questions</td>
<td>898-5744</td>
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<tr>
<th>ADMISSIONS TAX</th>
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<td>Admissions Tax</td>
<td>896-1970</td>
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<tr>
<td>Extensions</td>
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<tr>
<td>Failure to File</td>
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<tr>
<th>ELECTRONIC SERVICES</th>
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<tr>
<td>E-Sales Information &amp; Assistance</td>
<td>896-1715 #1</td>
</tr>
<tr>
<td>Electronic Fund Transfers (EFT)- all business taxes except sales</td>
<td>(800) 476-0311 #4</td>
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<tr>
<td>Electronic Data Interchange (EDI)</td>
<td>1-800-476-0311</td>
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<tr>
<td>Business Tax TeleFile (Registration &amp; Filing)</td>
<td>898-5918</td>
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<tr>
<td>Business Tax TeleFile (Sales Tax Help Line)</td>
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<tr>
<td>Business Tax TeleFile Help Line</td>
<td>896-1715 #2</td>
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<tr>
<td>Business Tax TeleFile E-mail</td>
<td><a href="mailto:telefile@sctax.org">telefile@sctax.org</a></td>
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<thead>
<tr>
<th>OTHER HELPFUL TELEPHONE ASSISTANCE</th>
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<tr>
<td>Alcoholic Beverage License (Beer, Wine &amp; Alcoholic Liquors)</td>
<td>898-5864</td>
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<tr>
<td>Business Personal Property</td>
<td>898-5222</td>
</tr>
<tr>
<td>Business Taxpayer Registration (Retail Licenses)</td>
<td>896-1350</td>
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<tr>
<td>Copies of Previously Filed Forms</td>
<td>896-1166</td>
</tr>
<tr>
<td>Forms Fax on Demand</td>
<td>898-5320 or (800) 768-3676</td>
</tr>
<tr>
<td>Problems Resolution Office</td>
<td>898-5199</td>
</tr>
<tr>
<td>Taxpayer Advocate</td>
<td>898-5444</td>
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</table>
TAXPAYER SERVICE CENTERS

Charleston Service Center: 1 South Park Circle
                          Suite 100
                          Charleston, S.C. 29407
                          Phone: 843-852-3600
                          Fax: 843-556-1780

Columbia Main Office: 301 Gervais Street
                     P.O. Box 125
                     Columbia, S.C. 29214
                     Phone: 803-898-5000
                     Fax: 803-898-5822

Florence Service Center: 1452 West Evans Street
                         P.O. Box 5418
                         Florence, S.C. 29502
                         Phone: 843-661-4850
                         Fax: 843-662-4876

Greenville Service Center: 211 Century Drive
                         Suite 210-B
                         Greenville, SC 29607
                         Phone: 864-241-1200
                         Fax: 864-232-5008

Myrtle Beach Service Center 1330 Howard Parkway
                           P.O. Box 30427
                           Myrtle Beach, S.C. 29577
                           Phone: 843-839-2960
                           Fax: 843-839-2964

Rock Hill Service Center: 454 South Anderson Road
                         Business and Technology Center
                         Suite 202
                         P.O. Box 12099
                         Rock Hill, S.C. 29731
                         Phone: 803-324-7641
                         Fax: 803-324-8289

Internet Address..................................................www.sctax.org