

SC INFORMATION LETTER #14-2

SUBJECT: Sale of a Motor Vehicle, Trailer, Semitrailer and Pole Trailer to a Nonresident (Sales Tax)

DATE: February 6, 2014

SUPERSEDES: SC Information Letter #13-8 and all previous documents and any oral directives in conflict herewith.

AUTHORITY: S. C. Code Ann. Section 12-4-320 (2000)
S. C. Code Ann. Section 1-23-10(4) (Supp. 2012)
SC Revenue Procedure #09-3

SCOPE: An Information Letter is a written statement issued to the public to announce general information useful in complying with the laws administered by the Department. An Information Letter has no precedential value.

GENERAL INFORMATION CONCERNING SALES TO NONRESIDENTS

General Rule. For South Carolina sales tax purposes, Code Section 12-36-930 provides that the sales tax due on a sale to a nonresident of a motor vehicle, trailer, semitrailer, or pole trailer that is to be registered and licensed in the nonresident purchaser's state of residence, is as follows:

1. The lesser of:
 - (a) the sales tax which would be imposed on the sale in the purchaser's state of residence or
 - (b) the tax that would be imposed under Chapter 36 of the South Carolina Code of Laws.
2. No sales tax is due in South Carolina if a nonresident purchaser cannot receive a credit in his resident state for sales tax paid to South Carolina.

Note: Even though a credit will be allowed in the purchaser's state of residence for sales tax paid in South Carolina under this provision, the purchaser may still owe a state or local tax in his state of residence as a result of a higher state tax imposed in the purchaser's state, a local tax due in the purchaser's state, or other provisions of the state tax law in the purchaser's state of residence (e.g., credit provisions concerning state vs. local taxes).

Required Paperwork. Code Section 12-36-930 further provides that at the time of the sale, the seller shall obtain from the purchaser a notarized statement of the purchaser's intent to license the vehicle in the purchaser's state of residence within 10 days. South Carolina Form ST-385, "Affidavit for Intent to License Motor Vehicle, Trailer, Semitrailer, or Pole Trailer Purchased in South Carolina in Purchaser's State of Residence," may be used to meet the paperwork requirements of Code Section 12-36-930. The seller should retain a completed and notarized copy of Form ST-385. The purchaser should give a copy to the appropriate taxing agency in the purchaser's state of residence.

Note: Worksheets are attached to assist in calculating the tax due on sales to nonresidents. For illustrative purposes, attached is a sample worksheet completed for a motor vehicle purchased by an Alabama resident.

Sales Tax Rates Imposed by Neighboring States on Sales of Motor Vehicles. Since the amount of tax imposed on the purchase of a motor vehicle within South Carolina by a nonresident depends, in part, on the tax rate and type of tax imposed in the nonresident's home state, the sales tax imposed on sales of motor vehicles by neighboring states is provided to assist dealers in calculating the tax due, if any. The neighboring states tax information, as of the date of this Information Letter, for motor vehicles is:

Alabama	a 2% State rate imposed on sales price less trade in allowance
Florida	a 6% State rate imposed on sales price less trade in allowance
Georgia	no sales tax is due since Georgia does not impose a sales tax on the sale or lease of a motor vehicle, but imposes a Title Ad Valorem Tax ("TAVT") on the sale or lease of a motor vehicle. ¹
Kentucky	no sales tax is due since Kentucky does not impose a sales tax on the sale of a motor vehicle, but imposes a motor vehicle usage tax upon registration.
North Carolina	no sales tax is due since North Carolina does not impose a sales tax on the sale of a motor vehicle, but imposes a highway use tax upon registration.
Tennessee	a 7% State rate imposed on sales price less trade in allowance
Virginia	no sales tax is due since Virginia does not allow a credit for taxes paid in another state if the state of purchase (<i>e.g.</i> , South Carolina) exempts sales of motor vehicles to residents of states that do not give such credit.

¹ Lease payments for a motor vehicle that is leased for more than 31 consecutive days are exempt from the Georgia sales and use tax, but are subject to the Georgia TAVT. As such, the lease of a motor vehicle by a South Carolina dealer to a resident of Georgia for more than 31 consecutive days, where the dealer obtains a notarized statement of the lessee's intent to license the motor vehicle in Georgia within 10 days, is not subject to the South Carolina sales tax.

West Virginia no sales tax is due since West Virginia does not allow a credit for taxes paid in another state

Sales to Residents of Other States. In order to assist dealers verify the most current sales tax information in other states or to obtain information in calculating the tax due on sales to nonresidents of states not listed above, the following are websites that provide a link to applicable state agencies as of the date of this Information Letter:

1. <http://www.taxadmin.org/fta/link/> This is the Federation of Tax Administrators website. It contains a link to the website to each of the 50 states taxing authorities.
2. <http://www.seatastates.org/links.htm> This is the Southeastern Association of Tax Administrators website. It contains a link to the website to each of the southeastern states taxing authorities.

Sales to Residents of Other Countries or Possessions of the United States. A sale of a motor vehicle, trailer, semitrailer, or pole trailer to a resident of a possession of the United States or another country is subject to South Carolina sales tax at the rate that a South Carolina resident would pay on the purchase.

SALES NOT SUBJECT TO SALES AND USE TAX

The following sales are not subject to sales and use tax:

1. A sale of a motor vehicle, trailer, semitrailer, or pole trailer that is delivered out-of-state by the dealer at the purchaser's direction. See Code Section 12-36-2120(36).
2. A sale of a motor vehicle, trailer, semitrailer, or pole trailer to a dealer for resale. The liability for the sales tax will shift from the seller to the purchaser (*i.e.*, the dealer purchasing the motor vehicle for resale) if the seller receives a properly completed Form ST-8A, "Resale Certificate," from the purchaser. See Code Section 12-36-120(1).
3. A sale of a qualifying motor vehicle to a military personnel stationed in this State by reason of orders of the U.S. Armed Forces who is not a resident of South Carolina is exempt from South Carolina sales and use tax, provided the dealer is furnished within 10 days of the sale: (1) a copy of Form ST-178, "Nonresident Military Tax Exemption Certificate," completed by a commissioned officer of the Armed Forces of a higher rank than the purchaser, or (2) a leave and earnings statement from the appropriate department of the armed services designating the state of residence of the buyer.

Note: This sales tax exemption for sales to nonresident military personnel applies only to the sale of a motor vehicle that is primarily designed to carry passengers, such as a car, passenger van, and sports utility vehicle. It does not apply to the sale of a motor vehicle designed primarily to carry cargo, such as a cargo van or truck. See Code Section 12-36-2120(25).

SOUTH CAROLINA \$300 MAXIMUM SALES TAX

The sales and use taxes are imposed at the rate of 5%² for the sale or lease of tangible personal property subject to the \$300 maximum tax. **Local taxes administered and collected by the Department on behalf of local jurisdictions do not apply to the sale or lease of tangible personal property subject to a maximum tax.**

The following are examples of tangible personal property the sale or lease of which are subject to the \$300 maximum tax:

- motor vehicles (including “low speed vehicles” that meet the requirements of South Carolina Code §§56-2-110 through 56-2-130);
- motorcycles (on-road or off-road);
- recreational vehicles, including tent campers, travel trailers, park trailers, motor homes and fifth wheels;
- trailers or semitrailers capable of being pulled only by a truck tractor;
- fire safety education trailers; and
- horse trailers.

Leases: In order for the lease of any of the above items to qualify for the \$300 maximum tax, the lease must specifically state the term of, and remain in force for, a period in excess of 90 continuous days. In addition, the sales or use tax applies to each renewal of the lease and the maximum tax for that renewal will only apply if (1) the lease renewal is in writing and (2) the lease renewal specifically states a term of, and remains in force for, a period in excess of 90 continuous days.

For purposes of computing the maximum tax, South Carolina Code §56-3-20 provides the definitions of motor vehicle, motorcycle, vehicle, trailer, semitrailer, pole trailer, and truck tractor.

SOUTH CAROLINA EXCEPTIONS TO THE MAXIMUM TAX

The sales and use taxes are imposed at the rate of 6%³ for the sale or lease of tangible personal property not subject to a maximum tax. **In addition, local taxes administered and collected by the Department on behalf of local jurisdictions apply to the sale or lease of tangible personal property not subject to a maximum tax.**

² The provisions of South Carolina Code §12-36-1110 which increased the sales and use tax rate from 5% to 6% effective June 1, 2007 do not apply to the sale or lease of tangible personal property subject to the maximum tax.

³ The provisions of South Carolina Code §12-36-1110 increased the sales and use tax rate from 5% to 6% effective June 1, 2007. This increase applies to trailers and semitrailers that are not subject to the maximum tax.

The following are examples of tangible personal property the sale or lease of which are not subject to the maximum tax:

- trailers or semitrailers capable of being pulled by vehicles other than a truck tractor;
- pole trailers;
- boat trailers; and,
- all terrain vehicles, legend race cars, and other items not meeting the definition of a motor vehicle.

Note: Sales or leases of these items are subject to a state tax rate of 6%, plus any applicable local sales and use tax.

WORKSHEET EXAMPLE - SALE OF A MOTOR VEHICLE TO A NONRESIDENT

This worksheet calculates the State sales tax. Sales of these items are subject to the \$300 maximum State sales tax and are not subject to any applicable local sales tax.

Purchaser's Name	John Doe
Purchaser's State of Residence	Alabama
Purchaser's State Sales Tax Rate	2 %
Trade-in Allowed	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Computation of Tax Based on Alabama's State Sales Tax Rate

1. Sales Price	\$28,000
(Enter amount on Sales Tax Return (ST-455) as Item 1 on Worksheet #1 and as Item 10 on Worksheet #3)	
2. Less: Trade-in (if allowed in purchaser's state)	\$ 8,000
3. Measure of Tax (Line 1 less line 2)	\$20,000
4. Multiply by Purchaser's State Sales Tax Rate (Not to exceed 5%)	2%
5. Tax Due Based on Purchaser's State Sales Tax Rate	\$ 400

Computation of Tax Based on South Carolina State Sales Tax Rate and Maximum Tax

6. Sales Price (Line 1)	\$28,000
7. Less: Trade-in	\$ 8,000
8. Measure of Tax (Line 6 less line 7)	\$20,000
9. Multiply by SC State Sales Tax Rate (5%)	5%
10. Maximum Tax (This amount may <u>not</u> exceed \$300.)	\$ 300

Computation of the State Sales Tax due South Carolina and Allowable Deductions on the Sales Tax Return

11. SC State Sales Tax Due (Lesser of Line 5 or Line 10)	\$ 300
12. SC State Sales Tax Rate	5%
13. Basis for Tax at SC State Rate (Line 11 divided by Line 12)	\$ 6,000
14. Measure of Tax from Line 3	\$20,000
15. Less: Basis for Tax at SC State Rate (Line 13)	\$ 6,000
16. Deduction for Excess Sales Price* (Line 14 less Line 15)	\$14,000
17. Trade-in Allowed* (Line 2)	\$ 8,000
18. Total Deductions (Line 16 plus Line 17)	\$22,000

*Enter type and amount on the "Deduction" line (Item 13) of the Worksheet on the Sales Tax Return (ST-455).

WORKSHEET #1: SALES OF MOTOR VEHICLES TO NONRESIDENTS

This worksheet calculates the State sales tax. Sales of these items are subject to the \$300 maximum State sales tax and are not subject to any applicable local sales tax.

Purchaser's Name _____
Purchaser's State of Residence _____
Purchaser's State Sales Tax Rate _____ %
Trade-in Allowed _____ Yes _____ No

Computation of Tax Based on Purchaser's State Sales Tax Rate

1. Sales Price _____
(Enter amount on Sales Tax Return (ST-455) as Item 1 on Worksheet #1 and as Item 10 on Worksheet #3)
2. Less: Trade-in (if allowed in purchaser's state) _____
3. Measure of Tax (Line 1 less line 2) _____
4. Multiply by Purchaser's State Sales Tax Rate (Not to exceed 5%) _____
5. Tax Due Based on Purchaser's State Sales Tax Rate _____

Computation of Tax Based on South Carolina State Sales Tax Rate and Maximum Tax

6. Sales Price (Line 1) _____
7. Less: Trade-in _____
8. Measure of Tax (Line 6 less line 7) _____
9. Multiply by SC State Sales Tax Rate (5%) _____ 5%
10. Maximum Tax (This amount may not exceed \$300.) _____

Computation of the State Sales Tax due South Carolina and Allowable Deductions on the Sales Tax Return

11. SC State Sales Tax Due (Lesser of Line 5 or Line 10) _____
12. SC State Sales Tax Rate (5%) _____ 5%
13. Basis for Tax at SC State Rate (Line 11 divided by Line 12) _____
14. Measure of Tax from Line 3 _____
15. Less: Basis for Tax at SC State Rate (Line 13) _____
16. Deduction for Excess Sales Price* (Line 14 less Line 15) _____
17. Trade-in Allowed* (Line 2) _____
18. Total Deductions (Line 16 plus Line 17) _____

*Enter type and amount on the "Deduction" line (Item 13) of the Worksheet on the Sales Tax Return (ST-455).

**WORKSHEET #2: SALES TO NONRESIDENTS OF TRAILERS AND SEMITRAILERS
PULLED BY A TRUCK TRACTOR; RECREATIONAL VEHICLES; FIRE EDUCATION
TRAILERS; AND HORSE TRAILERS**

This worksheet calculates the State sales tax. Sales of these items are subject to the \$300 maximum State sales tax and are not subject to any applicable local sales tax.

Purchaser's Name _____
 Purchaser's State of Residence _____
 Purchaser's State Sales Tax Rate _____ %
 Trade-in Allowed _____ Yes _____ No

Computation of Tax Based on Purchaser's State Sales Tax Rate

1. Sales Price _____
 (Enter amount on Sales Tax Return (ST-455) as Item 1 on Worksheet #1 and as Item 10 on Worksheet #3)
 2. Less: Trade-in (if allowed in purchaser's state) _____
 3. Measure of Tax (Line 1 less Line 2) _____
 4. Multiply by Purchaser's State Sales Tax Rate (Not to exceed 5%) _____
 5. Tax Due Based on Purchaser's State Sales Tax Rate _____

Computation of Tax Based on South Carolina State Sales Tax Rate and Maximum Tax

6. Sales Price (Line 1) _____
 7. Less: Trade-in _____
 8. Measure of Tax (Line 6 less line 7) _____
 9. Multiply by SC State Sales Tax Rate (5%) _____ 5%
 10. Maximum Tax (This amount may not exceed \$300.00) _____

Computation of the State Sales Tax due South Carolina and Allowable Deductions on the Sales Tax Return

11. SC State Sales Tax Due (Lesser of Line 5 or Line 10) _____
 12. SC State Sales Tax Rate (5%) _____ 5%
 13. Basis for Tax at SC State Rate (Line 11 divided by Line 12) _____
 14. Measure of Tax from Line 3 _____
 15. Less: Basis for Tax at SC State Rate (Line 13) _____
 16. Deduction for Excess Sales Price* (Line 14 less Line 15) _____
 17. Trade-in Allowed* (Line 2) _____
 18. Total Deductions (Line 16 plus Line 17) _____

*Enter type and amount on the "Deduction" line (Item 13) of the Worksheet on the Sales Tax Return (ST-455).

**WORKSHEET #3: SALES TO NONRESIDENTS OF POLE TRAILERS AND TRAILERS
OR SEMITRAILERS PULLED BY A VEHICLE OTHER THAN A TRUCK TRACTOR**

This worksheet only calculates the State sales tax. Sales of these items are not subject to the \$300 maximum State sales tax; however, sales of these items are subject to any applicable local sales tax.

Purchaser's Name _____
 Purchaser's State of Residence _____
 Purchaser's State Sales Tax Rate _____ %
 Trade-in Allowed _____ Yes _____ No

Computation of Tax Based on Purchaser's State Sales Tax Rate

1. Sales Price (Enter amount on Sales Tax Return, Item 1 of Tax Return Worksheet) _____
 2. Less: Trade-in (if allowed in purchaser's state) _____
 3. Measure of Tax (Line 1 less Line 2) _____
 4. Multiply by Purchaser's State Sales Tax Rate (Not to exceed 6%) _____
 5. Tax Due Based on Purchaser's State Sales Tax Rate _____

Computation of Tax Based on South Carolina State Sales Tax Rate

6. Sales Price (Line 1) _____
 7. Less: Trade-in _____
 8. Measure of Tax (Line 6 less line 7) _____
 9. Multiply by SC State Sales Tax Rate (6%) _____ 6%
 10. Sales Tax Due Based on SC Law (This amount may exceed \$300.) _____

Computation of the State Sales Tax due South Carolina and Allowable Deductions on the Sales Tax Return

11. SC State Sales Tax Due (Lesser of Line 5 or Line 10) _____
 12. SC State Sales Tax Rate (6%) _____ 6%
 13. Basis for Tax at SC State Rate** (Line 11 divided by Line 12) _____
 14. Measure of Tax from Line 3 _____
 15. Less: Basis for Tax at SC State Rate (Line 13) _____
 16. Deduction for Excess Sales Price* (Line 14 less Line 15) _____
 17. Trade-in Allowed* (Line 2) _____
 18. Total Deductions (Line 16 plus Line 17) _____

*Enter type and amount on the "Deduction" line (Item 4) of the Worksheet on the ST-3, or ST-403, Sales Tax Return or on the "Deduction" line (Item 7) of Worksheet #2 of the ST-455, Sales Tax Return.

**This amount (Line 13 of this Worksheet) is the basis upon which any applicable local sales tax is computed (Local Taxes are reported on Form ST-389).