



301 Gervais Street, P.O. Box 125, Columbia, South Carolina 29214

SC PRIVATE LETTER RULING #88-6

TO: XYZ Corporation

SUBJECT: Credit for Use Tax Paid to Another State

REFERENCE: S.C. Code Ann. Section 12-35-815 (effective Jan. 1, 1988)

AUTHORITY: S.C. Code Ann. Section 12-3-170 (1976)
SC Revenue Procedure #87-3

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 general distribution.

Question:

On or after January 1, 1988, under new Code Section 12-35-815, will a taxpayer be entitled to a credit for use tax paid in another state on materials consumed in the process of manufacturing or fabricating products for contracts performed in South Carolina?

Facts:

S.C. Code Section 12-35-815, effective January 1, 1988, reads,

When a taxpayer is liable for the use tax imposed by this article on tangible personal property purchased in another state upon which a sales tax was paid in the other state, the amount of the sales tax is allowed as a credit against the use tax due this State, upon proof of payment of the sales tax, if the state in which the property was purchased allows substantially similar tax credits on tangible personal property purchased in this State. If the amount of the sales tax paid in the other state is less than the amount of use tax imposed by this article, the user shall pay the difference to the Commission. (emphasis added)

The XYZ Corporation is a corporation engaged in the business of fabrication, sales and installation of storm and prime windows, doors, awnings, patio covers and other home improvement products.

Such products are custom-fabricated at the company's plant in Nebraska, shipped to South Carolina and subsequently installed on a customer's home. The State of Nebraska treats XYZ as a contractor and imposes a sales or use tax on the purchase of materials used to fabricate their products.

S.C. Code Section 12-35-810 imposes the use tax on the storage, use or consumption of tangible personal property in this State. Furthermore, Regulation #117-174.66 reads,

No credit for sales or use taxes paid in other states is allowed under the South Carolina Sales Tax Law. When property subject to the South Carolina use tax is stored, used, or consumed in this state, the South Carolina use tax is due even though a sales or a use tax may has been paid on the property in some other state. (emphasis added)

Therefore, absent Code Section 12-35-815, use tax would be due on property stored, used or consumed in South Carolina regardless whether or not sales or use tax had been paid elsewhere. Also, no credit for such taxes would be allowed.

Conclusion:

Code Section 12-35-815, effective January 1, 1988, does not allow credit for use tax paid to another state against use tax due the State of South Carolina. However, Section 12-35-815 does allow a credit for sales tax paid to another state.

SOUTH CAROLINA TAX COMMISSION

s/S. Hunter Howard Jr.

S. Hunter Howard, Jr., Chairman

s/John M. Rucker

John M. Rucker, Commissioner

s/A. Crawford Clarkson Jr.

A. Crawford Clarkson, Jr., Commissioner

Columbia, South Carolina
February 10 _____, 1988