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State of South Carolina  
Department of Revenue  
301 Gervais Street, P.O. Box 125, Columbia, South Carolina 29214

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SC PRIVATE REVENUE OPINION #00-2

**SUBJECT:** Mesh Bags Used in Shipping and Manufacturing  
(Sales and Use Tax)

**REFERENCES:** S. C. Code Ann. Section 12-36-120(4) (Supp. 1999)

**AUTHORITY:** S. C. Code Ann. Section 12-4-320 (Supp. 1999)  
S. C. Code Ann. Section 1-23-10(4) (Supp. 1999)  
SC Revenue Procedure #99-4

**SCOPE:** A Private Revenue Opinion is a written statement issued to a specific taxpayer by the Department to apply principles of law to a specific set of facts or a particular tax situation. A Private Revenue Opinion does not have the force and effect of law, and is not binding on the person who requested it or the public. It is, however, the Department's opinion limited to the specific facts set forth, and is binding on agency personnel only with respect to the person to whom it was issued and only until superseded or modified by a change in statute, regulation, court decision, or advisory opinion, providing the representations made in the request reflect an accurate statement of the material facts and the transaction was carried out as proposed.

Question:

Are sales to or purchases by ABC of mesh bags used in shipping and in manufacturing textiles subject to the sales and use tax?

Conclusion:

Sales to or purchases by ABC of mesh bags used in shipping and in manufacturing textiles are not subject to the sales and use tax under the provisions of Code Section 12-36-120(4).

Facts:

ABC is in the textile industry, and maintains a variety of manufacturing facilities both inside and outside of South Carolina. In order to produce a finished product, they perform a variety of manufacturing operations such as cutting, sewing, dyeing and packaging. These operations at times are performed in separate plants or facilities, some of which are located within South Carolina and some of which are located outside of the state.

ABC's question involves the proper taxation of mesh bags which are used to ship work in process from one facility to another. ABC manufactures the beginning shell for their product, called a "blank." A number of blanks are then placed into mesh bags for shipment to another processing plant outside of South Carolina. At this plant, the blanks are sewn into usable apparel items, which are then placed back into the bags for further shipment. The completed blanks are then shipped to a dyeing facility (which is not located within South Carolina), where dyeing of the products take place. During the dyeing process, items are not removed from the bags, rather the bags themselves are dipped into the dyeing solutions and are dyed with the product. Once the dyeing is complete, the products are removed from the bags for final processing and packaging, and the bags are returned to the South Carolina manufacturing facility where they are again packed with new blanks for shipment to the sewing operation.

Discussion:

Code Section 12-36-910(A) imposes a sales tax and reads, in part:

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.

Code Section 12-36-1310(A) imposes a use tax and reads, in part:

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.

Therefore, for the sales or use taxes to apply there must be a retail sale or purchase of tangible personal property.

Code Section 12-36-120 reads in part:

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

\* \* \* \*

(4) materials, containers, cores, labels, sacks, or bags used incident to the sale and delivery of tangible personal property, or used by manufacturers, processors, and compounders in shipping tangible personal property. (Emphasis added.)

Based on the above code section and the description of how the bags are used, it is the opinion of the department that the sale to or purchase by ABC of the mesh bags described in the facts are not subject to the tax under the provisions of Code Section 12-36-120(4), since they are being used by a manufacturer in shipping tangible personal property between its manufacturing plants.

CAVEAT: This advisory opinion is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated, are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting the advisory opinion may not rely on it. If the taxpayer relies on this advisory opinion, and the Department discovers, upon examination, that the facts and circumstances are different in any material respect from the facts and circumstances given in this advisory opinion, then the advisory opinion will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this advisory opinion, changes in a statute, a regulation, or case law could void the advisory opinion.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Elizabeth Carpentier  
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Elizabeth Carpentier, Director

April 4, 2000  
Columbia, South Carolina