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

SC REVENUE ADVISORY BULLETIN #01-10

SUBJECT: Medicines and Insecticides Sold to Veterinarians
(Sales and Use Tax)

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

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

REFERENCES: S. C. Code Ann. Section 12-36-910 (Supp. 2000)
S. C. Code Ann. Section 12-36-1310 (Supp. 2000)
S. C. Code Ann. Section 12-36-110 (Supp. 2000)
S. C. Code Ann. Section 12-36-2120(6) (Supp. 2000)
S. C. Code Ann. Section 12-36-2120(28) (Supp. 2000)
SC Regulation 117-174.27 (1976)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (Supp. 2000)
S. C. Code Ann. Section 1-23-10(4) (Supp. 2000)
SC Revenue Procedure #99-4

SCOPE: The purpose of a Revenue Advisory Bulletin 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 Advisory Bulletin 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 It is, however, the Department's position and is binding on agency personnel until superseded or modified by a change in statute, regulation, court decision, or advisory opinion.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:

Are sales of prescription and non-prescription medicines and insecticides to veterinarians for use in the treatment of livestock, horses, dogs and cats subject to the sales and use tax?

Conclusion:

It is the opinion of the department that the following insecticides and/or medicines are exempt from the sales and use tax when sold to or purchased by a veterinarian:

(a) insecticides and medicines, whether or not prescription medicines, used to treat animals raised on a farm for the purpose of sale. See Code Section 12-36-2120(6) and SC Regulation 117-174.27.

(b) prescription medicines and radiopharmaceuticals used in the treatment of cancer, lymphoma, leukemia, or related diseases. In order for this exemption to be applicable, the

medicine must be of a type that requires a prescription; however, the medicine does **not** need to be sold by prescription. As such, sales of these medicines (to be used for the above purposes) to a veterinarian are exempt. See Code Section 12-36-2120(28)(a).

(c) prescription medicines used to relieve the effects of the treatment of cancer, lymphoma, leukemia, or related diseases. In order for this exemption to be applicable, the medicine must be of a type that requires a prescription; however, the medicine does **not** need to be sold by prescription. As such, sales of these medicines (to be used for the above purposes) to a veterinarian are exempt. See Code Section 12-36-2120(28)(a).

(d) free samples of prescription medicine distributed by its manufacturer and any use of these free samples. In order for this exemption to be applicable, the medicine must be of a type that requires a prescription and must be provided to the veterinarian by the manufacturer free of charge. See Code Section 12-36-2120(28)(a).

Note: In order to facilitate the sale to veterinarians of medicines and/or insecticides exempt from the tax under Code Sections 12-36-2120(6) and 12-36-2120(28), veterinarians may use two forms developed by the department.

Form ST-8F may be used by veterinarians to purchase free of the tax medicines and insecticides used to treat animals raised on a farm for the purpose of sale. Form ST-8 may be used by veterinarians to purchase free of the tax prescription medicines and radiopharmaceuticals used in the treatment of cancer, lymphoma, leukemia, or related diseases or prescription medicines used to relieve the effects of the treatment of cancer, lymphoma, leukemia, or related diseases.

By using these forms, the veterinarian becomes liable for the tax on any medicines or insecticides not used for exempt purposes and must report such tax due on a sales or use tax return.

Facts:

Pharmaceutical companies sell prescription and non-prescription medicines and insecticides to veterinarians. These items are used in the treatment of livestock, horses, dogs and cats.

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.” The measure of the sales tax, “gross proceeds of sales,” is defined at Code Section 12-36-90.

Code Section 12-36-1310 imposes 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.” The measure of the use tax, “sales price,” is defined at Code Section 12-36-130.

Code Section Code Section 12-36-110 defines “retail sale,” in part as:

(1)(l) sales of tangible personal property to veterinarians. The veterinarians are deemed to be the users or consumers of the property whether used in the rendering of professional services or sold outright as part of the veterinarian practice and not furnished as a part of professional services rendered.

Based on the above, it is the opinion of the department that sales of prescription and non-prescription products to veterinarians for use in the treatment of livestock, horses, dogs and cats are subject to the sales and use tax, whether used by the veterinarian in rendering his professional services or sold outright by the veterinarian as part of the veterinarian practice, unless otherwise exempt.

With respect to possible exemptions applicable for medicines and insecticides, we must look to Code Section 12-36-2120. That section exempts:

(6) insecticides, chemicals, fertilizers, soil conditioners, seeds, or seedlings, or nursery stock, used solely in the production for sale of farm, dairy, grove, vineyard, or garden products or in the cultivation of poultry or livestock feed;

SC Regulation 117-174.27 states:

The term “chemicals” used in Section [12-36-2120(6)] has been construed to include medicines. As a matter of practical application this construction operates to exempt from payment of sales or use taxes only the gross proceeds of sales of medicines for use in the production for sale of products of the farm.

Based on the above, it is the opinion of the department that if the animals being treated are animals raised on a farm for the purpose of sale, then insecticides and medicines, whether or not prescription medicines, sold to or purchased by a veterinarian for use in treating such animals are exempt from the sales and use tax.

Code Section 12-36-2120 also exempts:

(28)(a) medicine and prosthetic devices sold by prescription, prescription medicines and therapeutic radiopharmaceuticals used in the treatment of cancer, lymphoma, leukemia, or related diseases, including prescription medicines used to relieve the effects of any such treatment, and free samples of prescription medicine distributed by its manufacturer and any use of these free samples;

(b) hypodermic needles, insulin, alcohol swabs, blood sugar testing strips, monolet lancets, dextrometer supplies, blood glucose meters, and other similar diabetic supplies sold to diabetics under the authorization and direction of a physician;

(c) disposable medical supplies such as bags, tubing, needles, and syringes, which are dispensed by a licensed pharmacist in accordance with an individual prescription written for the use of a human being by a licensed health care provider, which are used for the intravenous administration of a prescription drug or medicine, and which come into direct

contact with the prescription drug or medicine. This exemption applies only to supplies used in the treatment of a patient outside of a hospital, skilled nursing facility, or ambulatory surgical treatment center;

(d) medicine donated by its manufacturer to a public institution of higher education for research or for the treatment of indigent patients; and

(e) dental prosthetic devices;

Based on the above, the following is the opinion of the department with respect to the medicines exempt under Code Section 12-36-2120(28):

medicine sold by prescription. In order for this exemption to be applicable, the medicine must be of a type that requires a prescription, the sale must require a prescription, and must actually be sold by prescription. As such, sales of medicine to a veterinarian are not exempt since such sales do not require a prescription, unless otherwise exempt under the sales and use tax law. See SC Technical Advice Memorandum #88-23.

prescription medicines and radiopharmaceuticals used in the treatment of cancer, lymphoma, leukemia, or related diseases. In order for this exemption to be applicable, the medicine must be of a type that requires a prescription; however, the medicine does **not** need to be sold by prescription. As such, sales of these medicines (to be used for the above purposes) to a veterinarian are exempt.

prescription medicines used to relieve the effects of the treatment of cancer, lymphoma, leukemia, or related diseases. In order for this exemption to be applicable, the medicine must be of a type that requires a prescription; however, the medicine does **not** need to be sold by prescription. As such, sales of these medicines (to be used for the above purposes) to a veterinarian are exempt.

free samples of prescription medicine distributed by its manufacturer and any use of these free samples. In order for this exemption to be applicable, the medicine must be of a type that requires a prescription and must be provided free of charge. medicine donated by its manufacturer to a public institution of higher education for research or for the treatment of indigent patients. This exemption is not applicable to veterinarians.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Elizabeth Carpentier
Elizabeth Carpentier, Director

December 7 _____, 2001
Columbia, South Carolina